THE
MARYVILLE
MUNICIPAL
CODE

Prepared by the

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CITY OF MARYVILLE, TENNESSEE

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PREFACE[1]

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

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

By utilizing the table of contents 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 recorder for a comprehensive and up to date review of the city's ordinances.

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

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

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

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

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[1]Whenever in this municipal code of ordinances masculine pronouns are used, the feminine is included.

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

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

The able assistance of the codes team: Kelley Myers and Nancy Gibson is gratefully acknowledged.

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

Section 14. All ordinances shall begin with the clause: Be it ordained by the Council of the City of Maryville, Tennessee. Every proposed ordinance shall be introduced in writing in the form required for final adoption. An ordinance may be introduced by any member of the Council or by the Manager. Upon introduction, a copy shall be distributed to each Council member, the Recorder, the Manager, and the City Attorney. The body of ordinances may be omitted from the journal, but reference therein shall be made to the ordinance by title and/or subject matter. Each ordinance enacted by the Council shall be presented to the Council and passed by a majority of the Council members present on two (2) separate days, the second presentation to be not less than fourteen (14) days following the first presentation unless a majority of the entire Council shall by recorded vote waive this time requirement. Upon the first presentation, the caption of the ordinance shall be read or its substance stated and upon request of any member of Council or upon the request of any taxpayer of the City, the ordinance shall be read in full before final passage. The second presentation of an ordinance may be included in a consent agenda and may be voted upon without formal presentation. The consent agenda may include ordinances, approvals, or other matters deemed appropriate by Council for inclusion in the consent agenda. Any Council person may request that an item be withdrawn from the consent agenda and be considered and voted upon separately. Except in the ordinance adopting the budget, no material or substantial amendment may be made on second or final passage unless such amendment is passed in the same manner as an amendment to an existing ordinance. Every ordinance shall become effective upon final passage unless by its terms the effective date is deferred. Every ordinance upon final passage shall be signed by the Mayor or Vice-Mayor or the Mayor's other designee on Council in the Mayor's absence. Every ordinance shall immediately be taken charge of by the Recorder and numbered, copied in ordinance book, and authenticated by the signature of the Mayor and Recorder. The ordinance shall then be filed and preserved in the Recorder's office. [As amended by Priv. Acts 1980, ch. 320, and Priv. Acts 2004, ch. 106, § 12]

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CHAPTER

CHAPTER 1

ADMINISTRATIVE ORGANIZATION[2]

SECTION

1-101. Departments. Departments. The administrative organization shall consist of the following departments to be under the direction of the department heads and operated in accordance with the administrative regulations issued by the city manager:

(1) Department of city manager's office
(2) Department of administrative services
(3) Department of financial services
(4) Department of public services
(5) Department of public safety
(6) Department of public utilities
(7) Department of information systems. (Ord. #2022-05, Jan. 2022)

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

[2]Charter references: art. II, § 31 and art. VIII.

CHAPTER 2

COUNCIL MEETINGS

SECTION

1-201. Time of meeting. The time of the regular monthly meeting of the council as authorized under Article IV of the Charter of the City of Maryville is hereby fixed at 7:00 P.M. on the first Tuesday of each month except when such day falls on a legal holiday, then the meeting shall be held on the following day. (1999 Code, § 1-201)

1-202. Place of meeting. The place of the regular monthly meeting of the council as authorized under Article III of the Charter of the City of Maryville is hereby fixed at the Municipal Building, 400 West Broadway, Maryville, Tennessee, or at such other location as designated by the mayor and city manager, provided that public notice of such other location is given at least five (5) days prior to the meeting. (1999 Code, § 1-202)

CHAPTER 3

CODE OF ETHICS

SECTION

1-301. Applicability. (1) This is the code of ethics for officials and employees of the city. It applies to all full-time and part-time elected or appointed officials and employees of the city, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city including, but not limited to, Maryville City Council, Maryville Regional Planning Commission, Maryville Board of Zoning Appeals, Code Review Committee, Construction Board of Adjustments and Appeals, Maryville Public Building Authority, Maryville Parking Authority, Maryville School Board, Big Springs Industrial Park Design Review Board, Historical Zoning Commission and Design Review Board. The words "city" and "municipal" include these separate entities. As provided by *Tennessee Code Annotated*, § 49-7-017, this code of ethics shall apply to the municipal board of education and its employees.

(2) In any situation in which a personal interest under this code of ethics is also a conflict of interest under state law, the provisions of the state law shall supersede § 1-303. (1999 Code, § 1-301, modified)

1-302. Definitions. As used in this chapter: (1) "City" means the City of Maryville, Tennessee.

(2) "City council" means the City Council of the City of Maryville.

(3) "Municipal board" means any board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city.

(4) "Personal interest" means:

(a) Any financial, ownership, or employment interest which is the subject of a vote by a municipal board or city council, not otherwise regulated by state statutes on conflict of interest;

(b) Any financial, ownership, or employment interest in a matter to be regulated or supervised by the city council or a municipal board; or

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

(5) 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. (1999 Code, § 1-302)

1-303. Disclosure of personal interest. (1) An official on city council or any municipal board with the responsibility to vote on a matter shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects, or that would lead a reasonable person to infer that it affects, the official's vote on the matter. In addition, the official may recuse himself or herself from voting on the matter.

(2) An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects, or that would lead a reasonable person to infer that it affects, the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself or herself from the exercise of discretion in the matter. (1999 Code, § 1-303)

1-304. Prohibition of acceptance of gifts and gratuities. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him or her for past action, in executing municipal business. (1999 Code, § 1-304)

1-305. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his or her official capacity or position of employment with the intent to result in financial gain for himself or herself or any other person or entity. (1999 Code, § 1-305)

1-306. Violations and penalty. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An

appointed official or any employee who violates any provision of this chapter is subject to disciplinary action.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

CHAPTER 1

DEVELOPMENT STANDARDS BOARD OF APPEALS

SECTION

2-101. Appointments. There is established a board to be called the development standards board of appeals which shall consist of five (5) members. Said board shall be appointed by the mayor per the requirements established herein. (1999 Code, § 2-101)

2-102. Appeals. Whenever a determination or decision is made by a city official acting in his/her official capacity with regard to either the utility or public works standards, it shall be the right of the owner, contractor, or duly authorized agent to appeal said determination or decision to the board. Notice of appeal shall be in writing and filed within thirty (30) days from the time a decision is rendered by the city official. (1999 Code, § 2-102)

2-103. Decisions. Upon hearing an appeal, the board may uphold the decision of the city official, or the board may vary the application of any provision of the city's adopted standards when, in the board's opinion, the enforcement thereof would be contrary to the spirit and purpose of the adopted standards or the public interest. (1999 Code, § 2-103)

2-104. Actions. The development standards board of appeals shall in every case reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the basis for its decision. If a decision of the board reverses or modifies a decision of the city official, or varies the application of any provision of the adopted standards, the city official shall immediately take action in accordance with that decision. (1999 Code, § 2-104)

2-105. Decisions are final. Each decision of the board shall be final, subject to such remedy as may be obtained by a court of law or equity. (1999 Code, § 2-105)

2-106. Board members. The board shall consist of five (5) members selected as follows: One (1) member shall be appointed from the Maryville Municipal Planning Commission. Said member shall be a city resident. One (1) member shall be appointed from the city board of adjustments and appeals. Said member shall be a city resident. One (1) member shall be appointed from the city board of zoning appeals. Said member shall be a city resident. Two (2) members at-large shall be appointed--one (1) that resides in the city and one (1) that resides in Blount County outside the city's corporate boundaries. (1999 Code, § 2-106)

2-107. Terms of office. Of the members first appointed, two (2) shall be appointed for a term of three (3) years, two (2) for a term of four (4) years, one (1) for a term of five (5) years, and thereafter they shall be appointed for terms of five (5) years. Vacancies shall be filled for an unexpired term in the manner in which the original appointments are made. Continued absence of any member from meetings of the board shall, at the discretion of the mayor, render such member subject to immediate removal from the board. (1999 Code, § 2-107)

2-108. Quorum. Three (3) members of the board shall constitute a quorum. In varying the application of any provisions of the adopted standards or in modifying an order of the city official, affirmative votes of the majority present, but not less than three (3) affirmative votes, shall be required. A board member shall not act in a case in which he/she might have a personal interest. (1999 Code, § 2-108)

2-109. Secretary of the board. The city engineer, or his designated representative, shall act as secretary of the board and shall keep a record of its proceedings. (1999 Code, § 2-109)

2-110. Procedures. The board may establish guidelines and procedures consistent with the provisions of the adopted standards. The board shall meet on an "as called" basis, with said meeting being called by the secretary of the board upon receipt of an appeal. (1999 Code, § 2-110)

TITLE 3

MUNICIPAL COURT

CHAPTER

CHAPTER 1

CITY COURT

SECTION

3-101. Schedule of costs. The city judge is hereby authorized to impose upon persons convicted of violating the ordinances of the City of Maryville the following court costs:

(1) For violating any of the provisions to title 15 of the Maryville Municipal Code, "Motor Vehicles, Traffic and Parking," or any other ordinance or regulation of the City of Maryville regulating motor vehicles and traffic, the sum of forty-six dollars ($46.00); provided, however, such court costs shall not be imposed upon persons answering parking citations unless the clerk of the city court has issued a summons in accordance with § 15-704(3) of the Maryville Municipal Code.

(2) For violating any other provision of the Maryville Municipal Code or any other ordinance, regulation or common law offense of the City of Maryville, the sum of fifty-six dollars ($56.00).

(3) For certain violations, as provided for by the municipal judge, an administrative fee may be attached in lieu of fine and cost. The purpose of the "First Offender Program" being a diversion from adjudication for a period defined by the municipal judge, the "First Offenders Fee" being the sum of ten dollars ($10.00).

(4) Contempt of court in municipal court shall be punishable by a fine in the amount of fifty dollars ($50.00) or less to be determined in the discretion of the court. (1999 Code, § 3-101)

3-102. Alternative sentencing. The city judge is hereby authorized to impose upon persons convicted of violating the ordinances of the City of Maryville, and who have shown proof of indigency by way of affidavit, an alternative to cash payment of fines, penalties, and costs.

(1) Upon conviction, a person may make application to the court for alternative sentencing by way of community service projects or other means of relief as may be deemed appropriate by the city judge.

(2) Such persons shall provide pertinent information to the court by way of an affidavit of indigency upon oath or affirmation.

(3) Upon approval by the municipal court, referral is made to the chief of

police who schedules community service work to the extent that the individual's physical condition shall permit.

(4) The chief of police shall file with the court a report stating that the number of hours worked has satisfied the court's order based on an hourly rate equivalent to the prevailing minimum wage as prescribed by the Fair Labor Standards Act, being 29 U.S.C. §§ 201 *et seq*. (1999 Code, § 3-102, modified)

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Failure to appear. Any person who fails to appear in city court to answer to a summons or citation for the violation of any ordinance or provision of this code shall be guilty of a civil offense punishable under the general penalty clause of this code. (1999 Code, § 3-201)

3-202. Disturbance of any proceedings. It shall be unlawful for any person to create any improper disturbance of any trial before the city court by making loud or unusual noises, by using profane or blasphemous language, or by any unduly distracting conduct whatsoever and such offense shall be punishable under the general penalty clause of this code. (1999 Code, § 3-202)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

CHAPTER 1

SOCIAL SECURITY

SECTION

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this municipality to extend, at the earliest date, to employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old-age and survivors insurance as authorized by the Federal Social Security Act, being 41 U.S.C. §§ 401 *et seq.*, and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1999 Code, § 4-101, modified)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1999 Code, § 4-102)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations,

and shall be paid over to the state or federal agency designated by said laws or regulations. (1999 Code, § 4-103)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1999 Code, § 4-104)

4-105. Records and reports. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1999 Code, § 4-105)

4-106. Exclusion of coverage due to another retirement system. There is excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the city. (1999 Code, § 4-106)

4-107. Exclusion of coverage due to lack of authorization. There is excluded from this chapter any authority to make any agreement with respect to any position, or any employee or official, compensation for which is on a fee basis, or any position, or any employee or official not authorized to be covered by applicable state or federal laws or regulations.

There is hereby excluded from this chapter any authority to make any agreement with respect to employees rendering services of an emergency nature, employees and officials engaged in rendering services in part-time positions, and elective officials rendering services in legislative, executive, and judicial positions. Acting under § 4-102 of this chapter, the mayor is directed to make and enter into an amendment to said agreement so as to include under the benefits of federal old age, survivors, disability, health insurance employees rendering services in part-time positions effective January 1, 1983, i.e., to the barred period under the federal statute of limitations, to employees and officials rendering services in executive, legislative and judicial positions as of October 1, 1986, and to include under coverage in the federal system all employees and officials performing services in a position under the Tennessee Consolidated Retirement System, but who are ineligible to become a member of such system, effective September 1, 1986. The coverage of ineligibles will continue in the event an ineligible later becomes eligible for membership in the retirement system. (1999 Code, § 4-107)

CHAPTER 2

PERSONNEL REGULATIONS[1]

SECTION

4-201. Personnel rules and procedures.[2] The city manager shall have the responsibility for the establishment and administration of personnel rules and procedures. The city council shall adopt said personnel rules and procedures and subsequent amendments by resolution. The rules shall have the force and effect of law. (1999 Code, § 4-201)

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[1]Charter reference: art. VIII.

[2]A copy of the City of Maryville Personnel Rules and Procedures is available in the office of the city recorder.

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-301. Program created. This chapter shall provide authority for establishing and administering the occupational safety and health program plan for the employees of the City of Maryville. (1999 Code, § 4-301)

4-302. Purpose. The City of Maryville, in electing to update their established program plan, will maintain an effective occupational safety and health program for its employees and shall:

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

(a) Top management commitment and employee involvement;

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

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

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

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

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

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

(5) Consult with the state commissioner of labor and workforce development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (1999 Code, § 4-302)

4-303. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Maryville shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Maryville whether part-time or full-time, seasonal or permanent. (1999 Code, § 4-303)

4-304. Standards authorized. The occupational safety and health standards adopted by the City of Maryville 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 § 6 of the Tennessee Occupational Safety and Health Act of 1972 (*Tennessee Code Annotated*, title 50, chapter 3). (1999 Code, § 4-304)

4-305. Variances from standards authorized. The City of Maryville may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, chapter 0800-1-2, as authorized by *Tennessee Code Annotated*, title 50. Prior to requesting such temporary variance, the City of Maryville shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the risk manager shall be deemed sufficient notice to employees. (1999 Code, § 4-305)

4-306. Administration. For the purposes of this chapter, the risk manager is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer. The risk manager shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972, being *Tennessee Code Annotated*, §§ 50-3-101, and Part IV of the Tennessee Occupational Safety and Health Plan. (1999 Code, § 4-306)

4-307. <u>Funding the program</u>. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the annual budget of the City of Maryville. (1999 Code, § 4-307)

CHAPTER 4

WORKERS' COMPENSATION

SECTION

4-401. State law applicable. The city is authorized to accept, and does accept, the provisions of the Workers' Compensation Law of the State of Tennessee, pursuant to the provisions of *Tennessee Code Annotated*, §§ 50-6-101 to 50-6-410. (1999 Code, § 4-401)

4-402. Employees covered. The acceptance of the provisions of the Workers' Compensation Law of the State of Tennessee by the city shall apply to all full-time employees of the municipality. (1999 Code, § 4-402)

4-403. Budget and appropriation. When the municipal budget is prepared and appropriations are made to cover the costs of operating the municipal government for each subsequent fiscal year, there shall be included in the budget and appropriations the cost of continuing in force the workers' compensation coverage. (1999 Code, § 4-403)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER

CHAPTER 1

PRIVILEGE TAXES[2]

SECTION

5-101. Tax levied. Except as otherwise specifically provided in this code or in the annual ordinance which adopts the city's budget, appropriates funds, and provides revenues, 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. (1999 Code, § 5-101)

5-102. License required. No person shall exercise any such privilege within the municipality without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1999 Code, § 5-102)

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[1]Charter references: art. II, art. V, art. VII, art. IX, and art. X.

[2]Charter reference
Imposition of tax: art. II, § 1(17).
State law reference
Tennessee Code Annotated, title 67, chapter 4.
See also the city's annual budget, appropriation, and revenue ordinances.

CHAPTER 2

PURCHASING REGULATIONS

SECTION

5-201. Purchasing agent. A purchasing agent shall be appointed by the city manager to contract for and purchase all supplies, materials, equipment, and contractual services required by any department of the City of Maryville.

The duties of the purchasing agent shall be outlined by appropriate classification description. (1999 Code, § 5-201)

5-202. Competitive bids. All purchases of and contracts for supplies, materials, equipment and services shall be allowed up to the state maximum allowed without competitive bidding as referenced by *Tennessee Code Annotated*, § 12-3-1212. If competitive bidding is required, the purchase or contract shall be awarded to the lowest responsible bidder, price and other factors considered. The City of Maryville shall have the right to reject any or all bids. (1999 Code, § 5-202, as amended by Ord. #2023-32, Oct. 2023)

5-203. Emergency purchases. In the case of an apparent emergency which requires the immediate purchase of supplies, materials, equipment or services, the city manager shall be empowered to authorize the purchasing agent to secure, at the lowest obtainable price, any item or service required regardless of the amount of the expenditure. In the case of actual emergency, and with the approval of the city manager, any department head may purchase directly any supplies, materials, equipment or services whose immediate procurement is essential to prevent delays in the work of the using department which may vitally affect the life, health, or convenience of citizens. If such a purchase amounts to one thousand dollars ($1,000.00) or more, a full report of the emergency purchase shall be filed by the city manager with the city council at the next council meeting for its approval. (1999 Code, § 5-203)

5-204. Waiver of competitive bids. The city council, by resolution or motion duly passed, upon written recommendation of the city manager that it is clearly to the advantage of the city not to contract by competitive bidding, may waive the requirements of competitive bidding. (1999 Code, § 5-205)

5-205. Purchase prices. In determining the amount of a purchase or contract for the purpose of this chapter, the entire purchase price for the goods bought and the total amount of charges for work done under a contract shall be considered. No contract or purchase shall be subdivided to avoid the requirements of this chapter. (1999 Code, § 5-206)

5-206. Conflicts of interest. No purchase shall be made from, nor any contract for purchase of services made with, any person, firm, or corporation in which any officer or employee of the city is financially interested except when such person, firm, or corporation is the sole source for such goods or services in Blount County, Tennessee, and then in such instance all purchases shall be subject to prior approval by the city council. No officer or employee of the city shall accept directly or indirectly any fee, rebate, money, or other thing of value from any person, firm, or corporation employed by, or doing business with the city, except on behalf of, and for the use of, the city, or in accordance with the exception hereinabove set forth. (1999 Code, § 5-207)

5-207. Rejection of bids. The purchasing agent shall have the authority to reject any and all bids, parts of all bids, or all bids for any one (1) or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The purchasing agent shall not accept the bid of a vendor or contractor who is in default on the payment of any taxes, licenses, fees, or other monies of whatever nature that may be due the city by said vendor or contractor. (1999 Code, § 5-208)

5-208. Records. The purchasing agent shall keep accurate records of all transactions as purchasing agent of the municipality. (1999 Code, § 5-209)

5-209. Rules and regulations. Purchasing rules and regulations shall be developed by the purchasing agent, approved by the city manager, and adopted by the city council. (1999 Code, § 5-210)

CHAPTER 3

INVESTMENT MANAGEMENT POLICY

SECTION

5-301. Authorized investments by the City of Maryville. The city is permitted in accordance with *Tennessee Code Annotated*, § 6-56-106, to invest monies of the city in the following financial instruments:

(1) Bonds, notes or treasury bills of the United States.

(2) Nonconvertible debt securities of the following government sponsored enterprises that are chartered by the Congress of the United States; provided, that such securities are rated in the highest category by at least two (2) nationally recognized rating services:

(a) The Federal Home Loan Bank;

(b) The Federal National Mortgage Association;

(c) The Federal Farm Credit Bank; or

(d) The Federal Home Loan Mortgage Corporation.

(3) Any other obligations not listed in subsections (1) or (2) above that are guaranteed as to principal and interest by the United States or any of its agencies.

(4) Certificates of deposit and other evidences of deposit at state and federally chartered banks and savings and loan associations.

(5) The local government investment pool created by *Tennessee Code Annotated*, title 9, chapter 4, part 7.

(6) Bonds or notes issued by, or on behalf of, the City of Maryville in accordance with *Tennessee Code Annotated*, title 9, chapter 21.

(7) Bonds or notes backed by the direct general obligation of a state of the United States, or a political subdivision or instrumentality thereof, having general taxing powers; and are rated in either of the two (2) highest rated categories by a nationally recognized rating agency. (1999 Code, § 5-301)

5-302. Final maturity of investments. All investments shall have a final maturity not to exceed twenty-four (24) months from the date of the investments. Alternatively, the investments may be tendered by the holder to the issuer thereof, or an agent of the issuer, at no less than twenty-four (24) month intervals. (1999 Code, § 5-302)

5-303. Sufficient liquidity. In order to ensure sufficient liquidity of funds, all investments in variable rate mode must carry a "put" option to be accessed in the case of a failed remarketing effort. (1999 Code, § 5-303)

5-304. Non-applicability. This chapter does not apply to any funds the city may hold in an irrevocable trust, such as for separate pension or retiree medical programs. Such trusts, if established, will have separate investment policies. (1999 Code, § 5-304)

TITLE 6

LAW ENFORCEMENT

CHAPTER

CHAPTER 1

POLICE AND ARREST[1]

SECTION

6-101. Police officers subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1999 Code, § 6-101)

6-102. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court. (1999 Code, § 6-102)

6-103. Police officers to wear uniforms and be armed. All police officers shall wear such uniform and badge as the city council shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1999 Code, § 6-103)

6-104. When police officers 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 police officer in the following cases:

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

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1999 Code, § 6-104, modified)

6-105. Police officers may require assistance in making arrests. It shall be unlawful for any male person to willfully refuse to aid a police officer in making a lawful arrest when such a person's assistance is requested by the police officer and is reasonably necessary. (1999 Code, § 6-105)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested for any offense, other than one (1) involving drunkenness, he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk 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. (1999 Code, § 6-106)

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 police officers.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1999 Code, § 6-107)

6-108. Drug enforcement program special account. In accordance with *Tennessee Code Annotated*, § 53-11-415, there is hereby created the drug enforcement program special account and the city recorder is hereby authorized and directed to deposit all funds received under the provisions of *Tennessee Code Annotated*, § 39-17-420, in said account.

All funds received by the City of Maryville under the provisions of *Tennessee Code Annotated*, § 39-17-420, be and the same are hereby appropriated to be used exclusively in the local drug enforcement program.

Upon written demand of the chief of police submitted to the city recorder and the city manager, the city recorder shall pay to the police department from said special account such demanded funds for use in the drug enforcement program.

The chief of police shall periodically, but not less often than annually, make written accounting of all expenditures from such demanded funds to the city recorder and the city manager. (1999 Code, § 6-108, modified)

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS PROVISIONS

SECTION

7-101. Fire lanes. (1) All premises within the City of Maryville which the fire department may be called upon to protect in case of fire and which are not readily accessible from public roads shall be provided with suitable gates, access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. Fire lanes shall be provided for all buildings which are set back more than one hundred fifty feet (150') from a public road or exceed thirty feet (30') in height and are set back over fifty feet (50') from a public road. Fire lanes shall be at least twenty feet (20') in width with the road edge closest to the building at least ten feet (10') from the building. Any dead-end road more than three hundred feet (300') long shall be provided with a turn-around at the closed end at least eighty feet (80') in diameter.

(2) The designation and maintenance of fire lanes on private property shall be accomplished as specified by the fire chief. It shall be the responsibility of the property owner or owners to properly mark fire lanes(s) as specified by the fire chief including signs and curb and parking lot striping.

(3) A written document, agreeable to the fire chief and for the benefit of the City of Maryville, may be required for emergency access over all fire lanes.

(4) It shall be unlawful for any person to park, or cause to be parked, a motor vehicle on, or otherwise obstruct, in any manner, any marked fire lane in the City of Maryville. No vehicle shall be left unattended at any time in any marked fire lane within the City of Maryville.

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

(5) Loading and unloading on or across any marked fire lane shall be limited to only the time necessary for said purpose and the operator of such vehicle shall always be within reasonable distance of said vehicle for the purpose of removing said vehicle which is preventing complete access to the fire lane by the fire department.

(6) Whenever any motor vehicle without a driver is found parked or stopped in any marked fire lane in the City of Maryville in violation of this section, the officer finding such vehicle may affix to such vehicle a citation for the driver and/or owner to answer for such violation in accordance with § 15-704(3) of this municipal code, and any person, firm or corporation violating any of the parking restrictions imposed by this section shall be subject to all of the provisions of said § 15-704, shall be guilty of a misdemeanor, and shall be fined as provided in said § 15-706(2).

(7) Whenever any motor vehicle is found parked or stopped in any marked fire lane in the City of Maryville, or obstructing the same, the officer finding such vehicle may cause the same to be removed by towing or otherwise, and the owner of such vehicle shall be liable for the cost of such removal.

(8) Any person, firm or corporation who shall violate or fail to comply with any of the provisions of this section shall be guilty of a misdemeanor and upon conviction of any such violation other than as provided in subsection (6) above shall be fined under the general penalty clause for this municipal code. (1999 Code, § 7-104)

CHAPTER 2

FIRE CODES[1]

SECTION

7-201. Fire codes adopted with local modifications. (1) Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501, *et seq*., and for the purpose of regulating the construction, alteration, repair, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the *International Fire Code*[2], 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code except as otherwise specifically stated in this chapter, and is hereinafter referred to as the "fire code." The fire code shall not apply to one (1) and two (2) family residential dwellings. The fire code shall further be subject to the following local modifications:

(a) Chapter 1, Scope and Administration: Section 101.1 Title. Is hereby amended locally in the City of Maryville by inserting "City of Maryville" as the name of the jurisdiction.

(b) Chapter 1, Scope and Administration: Section 105 PERMITS. Is hereby amended locally in the City of Maryville by inserting the following addition:

"105.2.5 Fire Prevention Committee and Issuance of Permits. The City Manager, the Fire Chief, and the Fire Inspector shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes, or occupancies, which shall require permits, in addition to those now enumerated in the fire code. The Fire Chief shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons.

(c) Section 109 - Board of Appeals is deleted locally and instead the following is adopted in its place:

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

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

"Fire Code Board of Appeals.

A Board of Appeals is hereby established to rule on matters related to this Code and its enforcement. This Board shall be comprised of the Fire Chief and the City Manager as those persons may change from time to time. Their terms shall be indefinite. No member of the Board of Appeals shall sit in judgment on any case in which the member holds a direct or indirect property or financial interest in the case. The Board of Appeals shall have the authority to establish rules and regulations for conducting its business that are consistent with the provisions of this Code. The Board of Appeals shall provide for the reasonable interpretation of the provisions of this Code and issue rulings on appeals of decisions involving the enforcement of this Code. The ruling of the Board of Appeals shall be consistent with the letter of the Code or when involving issues of clarity, ensuring that the intent of the Code is met with due consideration for public safety and firefighter safety. The Board of Appeals shall have authority to grant alternatives or modifications to procedures outlined in Section 1.4 of the Code. The Board of Appeals shall not have authority to waive requirements of the Code. Any person with standing shall be permitted to appeal a decision involving the Fire Code to the Board of Appeals when it is claimed that one of the following conditions exists:

(1) The true intent of the Code has been incorrect interpreted.
(2) The provisions of the Code do not fully apply.
(3) A decision is unreasonable or arbitrary as it applies to alternatives or new materials.

An appeal shall be submitted to the Fire Chief in writing within 30 calendar days of a notification of a violation or a ruling about an issue relating to this Code. The appeal shall outline the nature of the appeal and the requested remedy. Meetings of the Board of Appeals shall be held at the time the Board of Appeals determines, and within 30 calendar days, of the filing of the notice of appeal. All hearings before the Board of Appeals shall be open to the public. The Board of Appeals shall keep minutes of its proceedings showing the vote of each member and any of its actions. A quorum shall consist of not less than two members. Every decision of the Board of Appeals shall be entered in the minutes of the Board meeting. A decision of the Board of Appeals shall be final subject to such remedy as the aggrieved party might have through legal, equitable or other avenues of appeal under state law of final decisions of administrative bodies."

(d) Chapter 1, Scope and Administration: Section 110.4 Violation penalties. Is hereby amended locally in the City of Maryville by deleting the section in its entirety and insert in its place:

"110.4, Violation penalties. Any person, firm, corporation, tenant, owner or agent who shall violate a provision of this code, or fail to comply therewith or with any of the requirements thereof, or who shall erect, construct, alter, demolish, or move any structure, or has erected, constructed, altered, repaired, moved, or demolished a building or structure in violation of a detailed statement or drawing submitted and permitted thereunder, or directive of the fire code official and/or the building code official, or of the permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law."

(e) Chapter 1, Scope and Administration: Is hereby amended locally in the City of Maryville by adding this section in its entirety:

"114 VARIANCES

114. 1 Application. The Fire Chief shall have power to modify any of the provisions of the fire prevention codes upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the codes, provided that the sprit of the codes shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Fire Chief thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

114.2 Rejected Variances. Whenever the Fire Chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Chief to the city council within 30 days from the date of the decision."

(f) Chapter 1, Scope and Administration. Section 112.4 Failure to comply. The *International Fire Code*, 2018 Edition shall be augmented in Section 111.4 to add fifty dollars ($50.00) per day per offense as the amount of the applicable fine.

(g) Chapter 5, Fire Service Features. Section 506.1 Where required is hereby amended locally in the City of Maryville by adding the following exception at the end of the paragraph:

"Exception: Residential units without security gates, fire sprinkler system, fire alarm and not more than three stories in height are exempted from this requirement."

(h) Chapter 9, Fire Protection Systems. Section 903.2.8 Group R is hereby amended locally in the City of Maryville by adding the following exception at the end of the paragraph:

"Exception: This section shall not apply to detached one and two-family dwellings and multiple single family dwellings (townhouses) not more than three stories in height where each dwelling extends from the foundation to the roof, is open on at least two sides with each dwelling have a separate means of egress and their accessory structures as regulated by the International Residential Code, 2018 Edition."

(i) Chapter 57, Flammable and Combustible Liquids. Section 5704.2.9.6.1 Locations where aboveground tanks are prohibited. Is hereby amended locally in the City of Maryville by adding the following geographical limits.

"1. Residential District
2. Business and Transportation District
3. Environmental Conservation District
4. Central Community District
5. Single Family District
6. Office District
7. Neighborhood District
8. Central Business District
9. Washington Street Commercial Corridor
10. Office Transition Zone
11. Heritage Development Zone
12. Central Business District Support Zone
13. College Hill Historic District
14. High Intensity Commercial District
15. Oak Park Historic District
16. Estate Zone
17. High Density Residential
18. Institutional
19. High Intensity Retail District."

(j) Chapter 57, Flammable and Combustible Liquids. Section 5706.2.4.4 Locations where aboveground tanks are prohibited. Is hereby amended locally in the City of Maryville by adding the following geographical limits.

"1. Residential District
2. Business and Transportation District
3. Environmental Conservation District
4. Central Community District
5. Single Family District
6. Office District
7. Neighborhood District
8. Central Business District
9. Washington Street Commercial Corridor
10. Office Transition Zone

11. Heritage Development Zone
12. Central Business District Support Zone
13. College Hill Historic District
14. High Intensity Commercial District
15. Oak Park Historic District
16. Estate Zone
17. High Density Residential
18. Institutional
19. High Intensity Retail District."

(k) Chapter 58, Flammable Gasses and Flammable Cryogenic Fluids. Section 5806.2 Locations where above-ground tanks are prohibited. Is hereby amended locally in the City of Maryville by adding the following geographical limits.

"1. Residential District
2. Business and Transportation District
3. Environmental Conservation District
4. Central Community District
5. Single Family District
6. Office District
7. Neighborhood District
8. Central Business District
9. Washington Street Commercial Corridor
10. Office Transition Zone
11. Heritage Development Zone
12. Central Business District Support Zone
13. College Hill Historic District
14. High Intensity Commercial District
15. Oak Park Historic District
16. Estate Zone
17. High Density Residential
18. Institutional
19. High Intensity Retail District."

(l) Chapter 61, Liquefied Petroleum Gases. Section 6104.2 Locations where above-ground tanks are prohibited. Is hereby amended locally in the City of Maryville by adding the following geographical limits.

"1. Residential District
2. Business and Transportation District
3. Environmental Conservation District
4. Central Community District
5. Single Family District
6. Office District
7. Neighborhood District
8. Central Business District

9. Washington Street Commercial Corridor
10. Office Transition Zone
11. Heritage Development Zone
12. Central Business District Support Zone
13. College Hill Historic District
14. High Intensity Commercial District
15. Oak Park Historic District
16. Estate Zone
17. High Density Residential
18. Institutional
19. High Intensity Retail District."

(2) Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501, *et seq*., and for the purpose of regulating the construction, alteration, repair, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the *National Fire Protection Association One Fire Code*[1], 2018 edition, ("code") as prepared and adopted by the National Fire Protection Association is hereby adopted by reference in the corporate limits of the City of Maryville except as stated below:

Local Modifications:

(a) Chapter 1, Referenced Publications NFPA 5000, *Building Construction and Safety Code*, 2018 edition shall be deleted in its entirety without replacement.

(b) National Fire Protection Association 101 Life Safety Code Chapter 1, Administration Section 1.2 Purpose. At the end of the section add:

"Exception: This Code shall not apply to detached one- and two-family dwellings and multiple single family dwellings (townhouses) not more than three stories in height where each dwelling extends from the foundation to the roof, is open on at least two sides with each dwelling having a separate means of egress and their accessory structures as regulated by the International Residential Code for One- and Two-family Dwellings, 2018 edition."

(c) National Fire Protection Association 101 Life Safety Code Chapter 24 One- and Two-Family Dwellings shall be deleted in its entirety without replacement.

(d) 1.10 - Fire Code Board of Appeals shall be deleted in its entirety and replaced as follows:

"Fire Code Board of Appeals.

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

A Board of Appeals is hereby established to rule on matters related to this Code and its enforcement. This Board shall be comprised of the Fire Chief and the City Manager as those persons may change from time to time. Their terms shall be indefinite. No member of the Board of Appeals shall sit in judgment on any case in which the member holds a direct or indirect property or financial interest in the case. The Board of Appeals shall have the authority to establish rules and regulations for conducting its business that are consistent with the provisions of this Code. The Board of Appeals shall provide for the reasonable interpretation of the provisions of this Code and issue rulings on appeals of decisions involving the enforcement of this Code. The ruling of the Board of Appeals shall be consistent with the letter of the Code or when involving issues of clarity, insuring that the intent of the Code is met with due consideration for public safety and firefighter safety. The Board of Appeals shall have authority to grant alternatives or modifications to procedures outlined in Section 1.4 of the Code. The Board of Appeals shall not have authority to waive requirements of the Code. Any person with standing shall be permitted to appeal a decision involving the Fire Code to the Board of Appeals when it is claimed that one of the following conditions exists:

(1) The true intent of the Code has been incorrect interpreted.
(2) The provisions of the Code do not fully apply.
(3) A decision is unreasonable or arbitrary as it applies to alternatives or new materials.

An appeal shall be submitted to the Fire Chief in writing within 30 calendar days of a notification of a violation or a ruling about an issue relating to this Code. The appeal shall outline the nature of the appeal and the requested remedy. Meetings of the Board of Appeals shall be held at the time the Board of Appeals determines, and within 30 calendar days, of the filing of the notice of appeal. All hearings before the Board of Appeals shall be open to the public. The Board of Appeals shall keep minutes of its proceedings showing the vote of each member and any of its actions. A quorum shall consist of not less than two members. Every decision of the Board of Appeals shall be entered in the minutes of the Board meeting. A decision of the Board of Appeals shall be final subject to such remedy as the aggrieved party might have through legal, equitable or other avenues of appeal under state law of final decisions of administrative bodies." (1999 Code, §§ 7-201 and 7-601, modified)

7-202. Enforcement. The fire codes shall be enforced by the fire chief, or his designee, who shall have the same powers as the state fire marshal. (1999 Code, § 7-202)

7-203. Available in recorder's office. The Council of the City of Maryville hereby declares that one (1) copy of the aforesaid codes and revisions, as modified, has been filed with the recorder of the city for a period of fifteen (15) days prior to the passage of this chapter and that all notice and public hearing requirements in *Tennessee Code Annotated*, §§ 6-54-501, *et seq*., have been or will be met by the time of the final passage of this chapter. The fire codes shall further be maintained and kept available in the city recorder's office for public use, inspection and examination throughout the time when it is in effect. (1999 Code, § 7-203)

7-204. Violations and penalty. Any person, firm, corporation, tenant, occupant or agent who shall violate a provision of the fire codes or fail to comply therewith or with any of the requirements thereof or cause such action to be taken in violation of the provisions of these codes adopted by reference or locally adopted as modified shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation is committed or continued. Upon being found guilty of such violation, such person shall be punished according to the general penalty clause of the City of Maryville or through injunctive remedies in state or federal court as appropriate. In the event court action is taken, the city shall be entitled to recover from any person adjudicated to have violated this chapter the city's reasonable attorney fees and litigation costs incurred in bringing the action(s) to enforce the provisions of this chapter. Further, a permit issued to a violator may be revoked. (1999 Code, § 7-204)

CHAPTER 3

FIRE DEPARTMENT[1]

SECTION

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the city council of the municipality. All apparatus, equipment, and supplies shall be purchased by or through the municipality, and shall be and remain the property of the municipality. The fire department shall be composed of a chief appointed by the city manager and such number of physically-fit subordinate officers and firefighters as the chief shall appoint. (1999 Code, § 7-301)

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

(1) To prevent uncontrolled fires from starting.

(2) To prevent the loss of life and property because of fires.

(3) To confine fires to their places of origin.

(4) To extinguish uncontrolled fires.

(5) To prevent loss of life from asphyxiation or drowning.

(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1999 Code, § 7-302)

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1999 Code, § 7-303)

7-304. Records. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. (1999 Code, § 7-304)

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[1]Municipal code reference

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

7-305. Chief responsible for training. The chief of the fire department shall be fully responsible for the training of the firefighters. (1999 Code, § 7-305)

7-306. 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 commissioner in the execution of the provisions thereof. (1999 Code, § 7-307)

CHAPTER 4

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-401. Equipment use. No equipment of the fire department shall be used for firefighting outside the corporate limits with the exception of use permitted under mutual aid agreements[1] or use authorized in the discretion of the fire chief. Equipment of the fire department may further be used:

(1) If a fire is on city property;

(2) If, in the opinion of the fire chief, a fire is in proximity to property owned by or located within the city so as to endanger city property or property within the city; or

(3) If expressly authorized by city council. (1999 Code, § 7-401)

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[1]State law reference

Tennessee Code Annotated, §§ 58-8-101, *et seq*.

CHAPTER 5

SMOKE DETECTORS

SECTION

7-501. Definitions. (1) "Apartment building" means any building containing three (3) or more living units with independent cooking and bathroom facilities, whether designated as apartment house, tenement, garden apartment, or by any other name. The term does not include condominium projects.

(2) "Approved smoke detector" means a device which senses visible or invisible particles of combustion and has been investigated and listed in accordance with standards prescribed by:

(a) A nationally recognized and approved independent testing agency or laboratory, such as Underwriters' Laboratories' Standard for Single and Multiple Station Smoke Detectors (UL 217); or

(b) An agency authorized to make independent inspections by the state fire marshal.

(3) "Hotel" means any building providing sleeping accommodations for guests, travelers, or semi-permanent residents. The term includes motels, inns, boarding homes, lodging homes, rooming houses, tourist homes, hotels, dormitories, and so-called apartment hotels.

(4) "Mobile home" means a movable self-contained living unit designed for year-round occupancy, designed for transportation such as a trailer with axles and wheels attached, whether or not such axles and wheels remain attached when in place, moved or towed by another vehicle. (1999 Code, § 7-501)

7-502. Application to residential buildings. (1) It shall be unlawful to own or operate a hotel without installing an approved smoke detector in every room of the building which is ordinarily used for sleeping purposes.

(2) It shall be unlawful to own or operate an apartment building without installing an approved smoke detector in every living unit within the apartment building. When activated, the detector shall initiate an alarm which is audible in the sleeping rooms of the unit.

(3) It shall be unlawful to offer for rent, sale, or lease any mobile home without installing an approved smoke detector in the living unit which is audible in the sleeping rooms of the unit. (1999 Code, § 7-502)

7-503. Installation and operation. (1) All smoke detectors required by this chapter shall be installed in accordance with the manufacturer's direction unless they conflict with applicable law.

(2) All smoke detectors required by this chapter may be wired directly ("hard wired") to the building's power supply, powered by a self-monitored battery, or operated with a plug-in outlet fitted with a plug restrainer device (provided the outlet is not controlled by any switch other than the main power supply).

(3) Any smoke detector required in an apartment building by this act shall be maintained by the tenant of the living unit where the smoke detector is located in accordance with the manufacturer's instructions. However, upon termination of a tenancy in a unit, the owner of the apartment building shall ensure that any required smoke detector is operational prior to reoccupancy of the unit.

(4) The owner or manager of a hotel shall be responsible for performance of such maintenance, repairs, and tests as are necessary to ensure that every smoke detector required in such hotel is operational at all times.

(5) The owner or manager of a mobile home shall be responsible for maintenance, repair, and tests to ensure that all smoke detectors in the units are operational at times the unit is rented, leased, or sold.

(6) No alarm silencing switch or audible trouble silencing switch shall be provided unless its silenced position is indicated by a readily apparent signal. (1999 Code, § 7-503)

7-504. Compliance. (1) The provisions of this chapter shall apply only to existing buildings and mobile homes as herein defined. Smoke detectors shall be installed and maintained in new buildings in accordance with applicable building construction safety standards.

(2) Compliance with this chapter shall not relieve any person from the requirements of any other applicable law, ordinance, rule, or regulation. (1999 Code, § 7-505)

7-505. Violations and penalty. (1) It shall be unlawful for any person to tamper with or remove any smoke detector required by this chapter, or a component thereof.

(2) Any person who violates any provisions of this chapter shall be guilty of a violation, and upon conviction in city court, shall be subject to a fine of not more than five hundred dollars ($500.00). Each occurrence constitutes a separate offense and shall be heard in city court as such. (1999 Code, § 7-504)

CHAPTER 6

FIREWORKS

SECTION

7-701. Manufacture prohibited. It shall be unlawful for any person, firm, partnership, or corporation to manufacture within the corporate limits of Maryville, Tennessee, pyrotechnics, commonly known as fireworks, of any kind or description. (Ord. #2024-10, May 2024)

7-702. Storage, sale and use restricted. It shall be unlawful for any person, firm, partnership, or corporation to store for resale or sell in the corporate limits of Maryville, Tennessee, any pyrotechnics, commonly known as fireworks, except those fireworks classified as permissible fireworks in *Tennessee Code Annotated*, § 68-104-108. The storage for resale and retail sale of fireworks shall be subject to the following restrictions:

(1) The storage for resale and retail sale of fireworks is permitted only on lots zoned to allow retail sales located adjoining U.S. Highway 321 or U.S. Highway 411 or State Route 33 in the City of Maryville.

(2) Any person, firm, partnership, or corporation desiring to store and sell retail fireworks within the corporate limits of the City of Maryville shall make application for a permit to do so on forms provided for that purpose by the city recorder. The application shall be accompanied by a non-refundable fee of five hundred dollars ($500.00) for each location for applicants who have registered their business with the Tennessee Department of Revenue listing the City of Maryville as the principal situs address for the purpose of collection and distribution of location sales tax. Additionally, applicants who do not register with the Tennessee Department of Revenue may otherwise obtain a transient vendor license pursuant to the provision of Maryville Municipal Code title 9, chapter 5 and purchase a city fireworks permit in the amount of four thousand dollars ($4,000.00) for each location. No permit shall be issued for any person under eighteen years of age. All permits shall expire as of midnight on July 4th. The application shall include the name of the person making the application; the firm, partnership or corporation he represents; the business address of both the applicant and the partnership, firm or corporation he represents; the address and description of the premises where the storage and sale of fireworks is contemplated; sales tax numbers and any other information the city recorder deems pertinent to aid in the investigation of the application. The city recorder

shall refer the applicant to the fire chief or his designee who shall interview the applicant if desired and inspect the premises on which the storage and sale of fireworks is contemplated and make whatever additional investigation of the applicant or premises he deems appropriate to ensure that the premises and its operation by the applicant will not constitute a fire, explosion, or similar safety hazard. If the fire chief approves the application, the city recorder shall issue a permit. The permit shall not be transferable to any other person, firm, partnership, corporation or premise.

(3) No fireworks shall be sold from an automobile or any other vehicle. No fireworks shall be sold through a drive-thru window. Fireworks must not be thrown into any vehicle when lit nor thrown from any vehicle at any time.

(4) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto to the fireworks is prohibited.

(5) The presence of lighted cigars, cigarettes or pipes within ten feet (10') of where fireworks are offered for sale or are stored is declared unlawful and prohibited.

(6) All places where fireworks are stored or sold, there must be posted the words "Fireworks. No Smoking" in letters not less than four inches (4") high.

(7) No fireworks shall be sold at retail at any location where paints, oils or varnishes are for sale or use unless kept in the original unbroken containers. Fireworks may not be sold anywhere where any resin, turpentine, gasoline or other flammable substance is used, stored or sold.

(8) It shall be unlawful to offer for retail sale or to sell any fireworks to children under eighteen (18) years of age or to any intoxicated person.

(9) It shall be unlawful to explode or ignite fireworks within six hundred feet (600') of any church, hospital, or public school. It shall be unlawful to explode or ignite fireworks within two hundred feet (200') of where fireworks are stored, sold or offered for sale.

(10) Fireworks may be sold exclusively from June 25 - July 4 each year. (Ord. #2024-10, May 2024)

7-703. <u>Use of fireworks restricted</u>. It shall be unlawful for any person to fire, set off, shoot, discharge or otherwise explode any fireworks within the corporate limits of the City of Maryville except as follows:

(1) Fireworks may be fired, set off, shot, discharged or exploded on a seasonal basis from July 3 - 4 and at no other time.

(2) Fireworks may only be fired, set off, shot, discharged or exploded on those dates listed above from 11:00 A.M. to 11:00 P.M.

(3) Igniting and firing or exploding fireworks must be done entirely on private property unless otherwise permitted herein.

(4) Use of fireworks on all public streets, roadways, alleys, sidewalks, parks, parking lots, and public property within the City of Maryville is prohibited. (Ord. #2024-10, May 2024)

7-704. Penalty for violation. An individual violating any of the provisions of this chapter shall be guilty of a misdemeanor punishable pursuant to the general penalty clause of this code. Further, the fire chief or any police officer may seize, take, remove or cause to be removed at the expense of the owner all stocks of fireworks offered for sale, stored, held or used in violation of this chapter. (Ord. #2024-10, May 2024)

7-705. Exceptions. Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation. This chapter shall further not apply to the military of the United States or any peace officers. Further, this chapter shall not be read to prohibit the sale or use of blank cartridges for ceremonial, theatrical or athletic events. Sale or use of fireworks solely for agricultural purposes is permitted where approved by the state fire marshal. (Ord. #2024-10, May 2024)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Definition of "alcoholic beverages." As used in this chapter, unless the context dictates otherwise, "alcoholic beverages" means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being other than patent medicine or beer, as defined in *Tennessee Code Annotated,* § 57-5-101. (1999 Code, § 8-101, modified)

8-102. Consumption of alcoholic beverages on premises. *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Maryville, Tennessee. It is the intent of the city council that

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

the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in Maryville, Tennessee, the same as if said code sections were copied herein verbatim. (1999 Code, § 8-102)

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by *Tennessee Code Annotated*, title 57, chapter 4, § 301, for the City of Maryville General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Maryville alcoholic beverages for consumption on the premises where sold. (1999 Code, § 8-103)

8-104. Annual privilege tax to be paid to the city clerk. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Maryville shall remit annually to the city clerk the appropriate tax described in § 8-103. Such payment shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (1999 Code, § 8-104)

8-105. Public consumption of intoxicating liquors or alcoholic beverages prohibited. None of the beverages regulated by this chapter shall be consumed upon any public street, alley, boulevard, bridge, nor upon the grounds of any cemetery or public school, nor upon any park or public grounds, nor upon any vacant lot within two hundred feet (200') of any public street, highway, avenue, or other public place.

Despite the provisions of this section, possession and consumption of alcoholic beverages and beer as otherwise defined in this title is permitted during certain city sponsored or co-sponsored special events within the physical parameters of the special event zone during the time of the special event if otherwise provided by resolution of the city council. (1999 Code, § 8-105)

8-106. Manufacture of intoxicating liquors, intoxicating drinks, and high alcohol content beer. Intoxicating liquors, intoxicating drinks and high alcohol content beer as defined by state law may be manufactured within the corporate limits upon:

(1) Payment of a privilege tax to the city as required by law;

(2) The issuance by the city of a license authorizing the manufacturing facility to operate; and

(3) Proper licensure from the alcoholic beverage commission. Such local license shall be considered and granted, if appropriate, by city council and issued by the city recorder if all requirements under state law for the applicant to manufacture intoxicating liquors, intoxicating drinks and/or high alcohol content beer are met. The applicant shall provide all information for such license applications required by the city recorder. (1999 Code, § 8-106)

8-107. Municipal inspection fee imposed. (1) An inspection fee for the city to inspect the retail store of a manufacturer of high alcohol content beer within the city limits is hereby imposed at a rate of fifteen percent (15%). A manufacturer of high alcohol content beer shall obtain a retail license to sell its products manufactured on the manufacturer's premises. Such inspection fee shall be imposed at the wholesale price of the high alcohol content beer supplied by the wholesaler for those products manufactured and sold by the manufacture at its retail store.

(2) Further, an inspection fee is hereby levied on a manufacturer of alcoholic beverages other than high alcohol content beer to the extent that such manufacturer is a licensed retailer of alcoholic beverages other than high alcohol content beer within the municipality. The inspection fee is hereby set at eight percent (8%) of the wholesale price of the alcoholic beverages other than high alcohol content beer supplied by the wholesaler as provided by state law. (1999 Code, § 8-107)

CHAPTER 2

BEER[1]

SECTION

8-201. Beer board. There is hereby created a board to be known as the Maryville Beer Board, which shall be composed of the members of the City Council of the City of Maryville, whose duty it shall be to regulate, supervise and control the issuance, suspension and revocation of permits to sell, store, distribute, dispense, serve and/or manufacture beer as defined hereunder in the City of Maryville. The mayor shall be the chairman and the city recorder shall be the secretary of said board. A majority of the board shall constitute a quorum for any purpose.

The secretary of the board shall keep a record of all the proceedings of the board, in the form of a minute book, and shall keep on file in his office all original applications and a duplicate of each permit issued. The board shall be empowered to employ a court reporter or person of equivalent ability whenever

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[1]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).

necessary in any proceeding before it. The power, right, and authority are hereby conferred upon said board to arrange for and prescribe the details and form of the necessary applications, permits, and other matters incident to carrying out the provisions of this chapter. The board shall meet upon call of the chairman of the board to transact such business as may properly come before it.

The board shall perform such other duties and have such other power and authority provided by statute and this chapter.

In this title, chapter and code, "beer" means beer, ale or malt beverages, or any other beverages having an alcohol content the same definition appearing in *Tennessee Code Annotated,* § 57-5-101 as defined in *Tennessee Code Annotated*, § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. (1999 Code, § 8-201)

8-202. Authorization of beer businesses. Pursuant to *Tennessee Code Annotated*, §§ 57-5-101, *et seq*., it shall be unlawful in the City of Maryville to transport, sell, distribute, possess, receive, or manufacture beer as defined in this chapter except as provided in this chapter and subject to the privilege taxes provided in this code. Provided, however, it shall be unlawful for any person, firm, co-partnership, corporation, joint stock company, syndicate, association, or other group operating as a unit to sell, store, dispense, serve, distribute, and/or manufacture any of the said beverages regulated by this chapter within the City of Maryville without having first obtained a duly issued permit and license to do so in the manner prescribed in this chapter. (1999 Code, § 8-202)

8-203. Locations of beer businesses. Beer businesses shall be located where the applicable zoning is appropriate for the proposed use. No beer permit shall be granted to a tavern or craft beer retailer as defined elsewhere in this chapter located within one hundred fifty feet (150') of any school (public, private or church) as measured on a straight line from the nearest property line of said school or church to nearest point of the building or structure where the beer is stored, sold or manufactured, except that this provision shall not be applicable to permits located within the Central Business District, the Central Transition Zone, the Washington Street Commercial Corridor, and the High Intensity Commercial Zoning District of the City of Maryville. (1999 Code, § 8-203)

8-204. Hours and days of sale, etc., regulated. It shall be unlawful for any person, firm, corporation, joint stock company, syndicate, or association to offer for sale or sell beer, as defined in this chapter, within the corporate limits of Maryville, Tennessee, between the hours of 3:00 A.M. and 6:00 A.M. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday and between the hours of 3:00 A.M. and 10:00 A.M. on Sunday. No such beverages shall be consumed or opened for consumption on or about any premises where beer, as defined in this chapter, is sold within the corporate limits of Maryville,

Tennessee, in either bottle, glass or other container after 3:15 A.M. (1999 Code, § 8-204)

8-205. Permits for the manufacture of beer. Permits for the manufacture of beer shall be issued in accordance with the general requirements of this chapter. A manufacturer of beer can further apply for permits for retail sale for on-premises and/or off-premises consumption. "Manufacture" shall mean producing beer at a rate of at least two hundred (200) barrels each calendar year on the licensed premises. "Barrel" shall mean thirty-one (31) gallons. Documentation by the manufacturer of the number of barrels each calendar year may be required. (1999 Code, § 8-205)

8-206. Public consumption of beer prohibited. None of the beverages regulated by this chapter shall be consumed on any public street, alley, boulevard, bridge, nor upon the grounds of any cemetery or public school, nor upon any park or public grounds, nor upon any vacant lot within two hundred feet (200') of any public street, highway, avenue, or other public place.

Despite the provisions of this section, possession and consumption of beer is permitted during certain city sponsored or co-sponsored special events within the physical parameters of the special event zone during the time of the special event if otherwise provided by resolution of the city council. (1999 Code, § 8-206)

8-207. Beer permits. (1) No permit shall be issued except on application in writing of the owner or owners of the business made to the Maryville Beer Board which application shall be sworn to by the applicant. All applications shall be made on a form provided for that purpose and shall be filed with the secretary of the beer board. In no event shall a permit be issued without the written approval of the application by a majority of the beer board. The business must operate in the same name as identified on the permit application.

Prior to the consideration of an application, the City of Maryville shall collect an applicant fee of two hundred fifty dollars ($250.00) in accordance with *Tennessee Code Annotated*, § 57-5-104. For special event permits, the city may, in the discretion of the city manager, provide an incentive payment of up to two hundred fifty dollars ($250.00) per approved application to the applicant with such payment being made upon the conclusion of the special event if the permit holder participates in the special event and complies with all of the requirements of this title.

(2) Except for special event permits, permits shall be issued for an indefinite period of time, except that the Maryville Beer Board may issue a permit for a shorter or probationary period if, in its discretion, it deems such action proper and reasonable under the circumstances.

(3) Except for special events permits, there is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual

privilege tax of one hundred dollars ($100.00). Any person, firm, corporation, joint stock company, syndicate, or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and on each successive January 1, to the City of Maryville, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month, or portion thereof, remaining until the next tax payment date, all as provided in *Tennessee Code Annotated*, § 57-5-104.

(4) Except for catering permits, no permit now in force or hereinafter issued shall be good or valid except at the location described in the application upon which it is based, nor shall any such permit be transferrable. If any permit holder is a corporation or limited liability company, a change in ownership requiring the issuance of a new permit shall occur when control of fifty percent (50%) or more of the stock of the corporation or limited liability company is transferred to a new owner.

(5) The applicant or a representative may be required to appear in person before the board and subject himself to examination upon any and all questions appertaining to his qualifications under this chapter and amendments thereto.

(6) No permit may be granted hereunder to any establishment when any person, firm or corporation having at lest a five percent (5%) ownership in the establishment has been convicted within ten (10) years prior to the application for a permit hereunder of a violation of the laws governing the possession, sale or manufacture of alcoholic beverages, or of any felony or crime involving moral turpitude, or has had a beer permit revoked or suspended within the past ten (10) years. No person employed by any beer business shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture and transportation of alcoholic beverages or any felony or crime involving moral turpitude within the last ten (10) years.

(7) Except for caterer's permits and special event permits, every permit issued pursuant to this chapter shall be displayed in a conspicuous place in the place of business owned and described in the permit.

For caterers, the permit shall be prominently displayed at a location of the catered event.

For special events permits, the permit shall be displayed in a conspicuous way at the location where the beer is sold.

Except for caterer's licenses, a permit shall be valid only for a single location and cannot be transferred to another location except where an owner operates two (2) or more restaurants or businesses within the same building then the owner may, in the owner's discretion, operate some or all of such businesses pursuant to this same permit. A permit shall be valid for all decks, patios and other outdoor serving areas which are contiguous to the exterior of the building in which the business is located and are operated by the business.

(8) No permit or license shall be issued pursuant to this chapter unless the applicant establishes to the satisfaction of the board that he has obtained all

permits and paid all required fees and privilege taxes, and has met all of the requirements of the laws of the State of Tennessee and the United States.

(9) The holder of a permit issued pursuant to this chapter desiring to voluntarily surrender the permit shall tender said permit to the beer board. The beer board shall take such action upon the offer to surrender as it may determine necessary and advisable under the circumstances, and it shall have the absolute authority to refuse to accept the surrender of any permit.

(10) Upon notice by the Maryville Chief of Police, or his agent, that the city has reasonable cause to conclude that a permit holder is ineligible to hold a permit and/or falsified information in order to obtain a permit, the permit will be immediately temporarily suspended. The permit holder may request a hearing before the board within seven (7) working days of the suspension.

(11) If any false or misleading information is found in any material submitted to the board by or on behalf of an applicant for a beer permit, the application shall be cancelled and the applicant and any person who submitted false or misleading information shall not be permitted to apply for a beer permit for a period of ten (10) years from the date of the cancellation of the application.

(12) If any false or misleading information is found in any material submitted to the beer board by or on behalf of a holder of a beer permit, the permit shall be revoked immediately by the beer board and the permit holder and any person who submitted false or misleading information shall not be permitted to apply for a beer permit for a period of ten (10) years from the date of the revocation of the permit.

(13) A permit holder must return to the beer board all permits issued to the permit holder by the beer board within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, that notwithstanding the failure to return a beer permit, the permit shall expire on the termination of the business, change in ownership, relocation of the business or change in the business's name.

(14) Except for special events permits or caterer's permits, generally there shall be one (1) permit holder per location with a beer permit. During a period of time where a beer business is in the process of being sold or transferred, there may be two (2) permits issued for the same location for a period of up to sixty (60) days of overlap. If there is a violation of this chapter during that overlapping period of time, the permit holder who had actual control over the person or persons violating the chapter will be held responsible. In the event that it cannot be reasonably determined which permit holder is in control of such person or persons, then both permit holders shall be responsible for the violation. If more than sixty (60) days passes from the date of issuance of the second permit for the same location for a beer business and two (2) permits remain in place for the same address, the newer permit shall become null and void with no refund or compensation due to its holder. (1999 Code, § 8-207)

8-208. <u>Permits for retail sales; types designated</u>. Permits for the retail sale or giving away of beer shall be:

(1) Caterer's permits;
(2) Special events permits; or
(3) Permits of the following two (2) types:

(a) On-premises permits. On-premises permits shall be issued for the consumption of beer on-premises in accordance with the provisions of this chapter.

(b) Off-premises permits. Off-premises permits shall be issued for the sale of beer for consumption off the business premises in accordance with the provisions of this chapter.

A business can sell beer both for on-premises and off-premises consumption at the same location pursuant to one (1) permit if otherwise permitted by law and this section. (1999 Code, § 8-208)

8-209. Restrictions upon the issuance of on-premises beer permits. Permits for the on-premises sale or giving away of beer shall be issued according to the following classes and limitations, except that this provision shall not be applicable to the renewal of any permit existing and outstanding as of September 18, 1980 (date this section was replaced):

(1) On-premises where beer is sold for consumption at a restaurant. "Restaurant" shall mean a business establishment whose primary business is the sale of prepared food to be consumed on the premises. A "restaurant," as so defined, shall be a public place where meals are actually and regularly served to patrons, including children, and such place being provided with adequate and sanitary kitchen and dining room equipment, serving at a minimum, one (1) meal per day, five (5) days a week, and the serving of such meals shall be the principal (over fifty percent (50%)) business conducted. There shall be no limitation on the number of beer permits issued to restaurants.

(2) On-premises where beer is sold for consumption at a tavern. "Tavern" shall mean a business establishment whose primary business is, or is to be, the sale of beer to be consumed on the premises. There shall not be more than a total of twelve (12) taverns located within the corporate limits of the City of Maryville.

(3) On-premises where beer is sold in the rooms of regularly conducted hotels and motels as the same are defined under Tennessee state law regulating beer permits. Beer sold under such permit shall be dispensed to adult guests only through locked, in-room units. No person under the age of twenty-one (21) shall be issued or supplied with a key by any hotel or motel for such units.

(4) On-premises where beer is sold by a manufacturer of beer. A "manufacturer" shall mean a business establishment whose business is the manufacture of beer to be consumed on-premises or off-premises.

(5) On-premises where beer is sold by a craft beer retailer. A "craft beer retailer" is a business whose primary business is the retail sale of craft beer. "Craft beer" means beer as otherwise defined in this chapter that is further manufactured by breweries with an annual production of six million (6,000,000) barrels or less.

(6) On-premises where craft beer is sold by a grocery store. Craft beer may be sold or given away for on-premises consumption at a grocery store but only as set forth herein. "Craft beer" means beer as defined in this chapter that is further manufactured by breweries with an annual production of six million (6,000,000) barrels or less. A "grocery store" shall mean a business establishment whose primary business is the retail sale of food merchandise and household items. Grocery stores can sell or give away four ounce (4 oz.) samples of craft beer for tasting by customers to allow the customer to decide what type of craft beer the customer might want to purchase. No more than four (4) of such four ounce (4 oz.) samples of craft beer may be given to a customer per visit, with one (1) visit per day allowed per customer for sampling purposes. Taps for such craft beer must be manned when the taps are in operation for sales by a grocery store employee. The beer tap must not be accessible to, or used by, a customer directly at any time.

(7) On-premise where beer is sold for consumption at a bowling center. For the purpose of this chapter, a bowling center is defined as an establishment which has permanently affixed bowling lanes for the sport of bowling and the sport of bowling constitutes the principal business of such establishment and the serving of beer being only an incidental part of the business. The bowling center shall have a restaurant or limited service restaurant on the premises.

(8) Notwithstanding any other provision of this title to the contrary, beer may be sold or given away for on-premises consumption at a movie theater but only as set forth herein. A "movie theater" shall mean an establishment that meets the following requirements:

(a) The movie theater must be located in a building which meets all of the requirements of the City of Maryville's laws and ordinances, including, without limitation, the requirements of the city's building codes, fire codes, and the zoning ordinances of the city;

(b) The movie theater must be located in a permanent building of at least seven thousand (7,000) square feet with a seating capacity of at least two hundred (200) people and at least one (1) auditorium with a full sized movie screen;

(c) The movie theater must be a licensed business in which motion pictures are exhibited to the public regularly for a charge;

(d) The movie theater shall regularly serve prepared food to patrons; and

(e) The food sales from the movie theater in any given calendar year shall be equal to or greater than the beer sales in that same calendar year, based on dollar amount.

The permit holder shall periodically visually monitor all auditoriums in which beer sales are permitted, and each container of beer shall be distinct from any other container used to serve nonalcoholic beverages. Prior to making a sale of any beer under a movie theater beer permit, a valid, government-issued document, such as a driver's license, or other form of identification deemed acceptable to the permit holder, shall be produced to the permit holder. The

document must include a photograph and date of birth of the adult consumer attempting to the make the beer purchase.

(9) Notwithstanding any other provision of this title to the contrary, beer may be sold or given away for on-premises consumption at an event center only as set forth herein. An "event center" shall mean an establishment that meets the following requirements:

(a) The event center must be located in a building or buildings which meet all of the requirements of the City of Maryville's laws and ordinances, including, without limitation, the requirements of the city's building codes, fire codes, and the zoning ordinances of the city.

(b) The event center must be located in a permanent building or buildings, which when combined as a whole, contain at least four thousand (4,000) square feet of even center space and hold a minimum of one hundred forty-nine (149) legal occupants.

(c) The event center must be a licensed business and commercial facility in which events such as wedding receptions, fund raising galas, corporate parties and similar events are hosted regularly for a charge. "Regularly" shall mean at least one (1) event per month on average takes place at the event center.

(d) The event center shall regularly serve prepared food to patrons, either through use of its own kitchen facilities or through a caterer. (1999 Code, § 8-209, as amended by Ord. #2019-05, April 2019, Ord. #2022-17, May 2022, and Ord. #2022-18, May 2022, modified)

8-210. <u>Restrictions on financial interests of beer permit holders</u>. No brewer, wholesaler, or manufacturer of any of the beverages regulated by this chapter, nor any agent or agents of such brewer, wholesaler, or manufacturer shall be permitted to make any loan of money or furnish any fixtures of any kind, or have any interest either directly or indirectly in the business of any retailer of such beverages, or in the premises occupied by any such retailer. No person holding and/or exercising an unexpired permit or license issued pursuant to this chapter shall, while so doing, convey or grant, or contract to convey or grant, any interest in the business located at the place named in said permit, or any interest in the premises or any property therein, to any brewer, wholesaler, or manufacturer of the beverages regulated by this chapter. No person holding and/or exercising an unexpired permit or license issued pursuant to this chapter shall incur or contract any indebtedness or financial obligation to any brewer, wholesaler, or manufacturer of the beverages regulated by this chapter, except for the purchase of said beverages. No permit or license shall be granted under this chapter to any applicant who, at the time of making application, is indebted or financially obligated to any such brewer, wholesaler, or manufacturer, except for the purchase of said beverages in the case of applicants seeking renewal of permits. (1999 Code, § 8-210)

8-211. Restrictions upon issuance of off-premises beer permits. Permits for the off-premises sale of beer shall be issued according to the following classes and limitations, except that this provision shall not be applicable to the renewal of any permit existing and outstanding as of October 6, 1987 (the date this section was replaced).

(1) Off-premises where beer is sold at a grocery store. "Grocery store" shall mean a business establishment whose primary business is the retail sale of food merchandise and household items. There shall be no limitation on the number of beer permits issued to grocery stores. Such a permit may include permitting beer sold in growlers or containers purchased expressly by customers to be filled for purchase of beer on tap to be taken from the grocery store for consumption off-premises.

(2) Off-premises where beer is sold at a convenience store or market. "Convenience store" or market shall mean a business establishment whose business is the retail sale of gasoline and petroleum products and food merchandise, household supplies and sundries. Beer shall not be sold for consumption on the premises of convenient stores or markets. There shall be no limitation on the number of beer permits issued to convenient stores or markets.

(3) Off-premises where beer is sold at a package store. "Package store" shall mean a business establishment whose primary business is the sale of sealed-packaged beer to be consumed off the premises. There shall be not more than one (1) permit issued to package stores for every two thousand (2,000) population, or fraction thereof, according to the latest official census of the City of Maryville.

(4) Off-premises where beer is sold at a drug store. "Drug store" shall mean a business establishment whose primary business is the retail sale of pharmaceuticals, food merchandise, household items, and sundries. Beer shall not be sold for consumption on the premises of drug stores. There shall be no limitation on the number of beer permits issued to drug stores.

(5) Off-premises where beer is sold at the site of the manufacturer. "Manufacturer" shall mean a business establishment whose business is the manufacture of beer for on-premises or off-premises consumption. There shall be no limit on the number of beer permits for manufacturers.

(6) Off-premises where craft beer is sold by a craft beer retailer. A "craft beer retailer" shall mean a business whose primary business is the retail sale of craft beer. There shall be no limit of permits for craft beer retailers. "Craft beer" means beer as defined in this chapter that is further manufactured by breweries with an annual production of six million (6,000,000) barrels of beer or less. (1999 Code, § 8-211)

8-212. Selling or otherwise dispensing beer to persons in motor vehicles. The beverages regulated by this chapter shall not be sold, given away, served, or otherwise dispensed to persons in automobiles or other motor vehicles except where:

(1) The beverages are sold in package form for consumption off premises; and

(2) Beer or intoxicating liquors in any form are not consumed or sold for consumption on premises where the drive-through is located. (1999 Code, § 8-212)

8-213. Restrictions pertaining to minors. No person under the age of eighteen (18) years shall be permitted to serve beer for on-premises consumption. No person under the age of eighteen (18) years shall be permitted to sell, handle, key in to a cash register, or scan into a cash register beer or intoxicating liquors for off-premises consumption. No person under eighteen (18) years of age shall check identification of those attempting to purchase beer or intoxicating liquors for off-premises consumption. (1999 Code, § 8-213)

8-214. Selling or otherwise dispensing beer to persons without valid permits or to persons engaging in unlawful practices prohibited. It shall be unlawful for any person, firm, co-partnership, corporation, syndicate, joint stock company, association or other group operating as a unit, who or which holds and/or exercises a distributor's or wholesaler's permit under this chapter, to sell, give away, deliver or distribute any of the beverages regulated by this chapter to any person, firm, co-partnership, corporation, syndicate, club, joint stock company, association, or other group operating as a unit in the City of Maryville, who or which does not hold a valid retailer's permit issued pursuant to this chapter, or to permit or allow any agent or employee to do so. Provided, further, that it shall also be unlawful for any such distributor or wholesaler knowingly to sell, give away, deliver, or distribute such beverages to any such retailer who has violated, or is violating, any of the provisions of this chapter, or to permit or allow any agent or employee to do so. (1999 Code, § 8-215)

8-215. Revocation of beer permits. The Maryville Beer Board is hereby empowered and directed, whenever from facts and evidence presented to it at a hearing hereinafter provided for it is of opinion that such action is justified in the public interest, to revoke or suspend any permit or license issued pursuant to this chapter to any person, firm, co-partnership, corporation, joint stock company, syndicate, association or group operating as a unit, who:

(1) Makes any material misrepresentation or false statement in the application upon which the permit is based, or fails to keep and maintain as true any promise or fact set forth in said application;

(2) Violates any of the provisions of this chapter;

(3) Is convicted of any violation of the laws of the United States or of the State of Tennessee or of the ordinances of any city prohibiting the manufacture, sale, possession, storage or transportation of alcoholic beverages as defined in this title; or

(4) Knowingly permits or allows, or negligently fails to prevent, the violation of any of the aforesaid laws or ordinances against said intoxicating liquors upon any premises occupied or owned by, or under the control of, the licensee.

Upon any complaint being made to the said board by one (1) or more reputable citizens that any of the acts above mentioned in this section has been committed or any other provision of this chapter has been or is being violated by a person holding and/or exercising a permit issued pursuant to this chapter, or when it shall appear that the premises of any permit holder are being maintained and operated in such manner as to be detrimental to the public health, safety or morals, or when said board has knowledge of any such act or violation, the holder of said permit shall be notified in writing by the secretary of the board and afforded an opportunity for a hearing before the board. Said notice shall be mailed, at least five (5) days before the hearing, to the address shown upon the application for a permit, shall state the nature of the complaint or violation, and shall direct the holder of said permit to appear before the board at a time and place specified and show cause, if any he has, why his permit should not be revoked or suspended. The hearing shall be broad in character, and evidence may be heard upon any facts or circumstances pertinent to or applicable to the violation charged. The reputation or character of the place and of the holder of the permit complained of shall be material and competent evidence for the consideration of the board at such hearing.

Whenever complaint is made charging that false statements or misrepresentations have been made in any application for a permit under this chapter, the burden of proof shall be upon the holder of the permit to establish the truth of the statement charged to be false; provided, that no formal complaint shall be necessary or required whenever the falsity of such statement or representation, or the commission of any of the acts above-mentioned in this section, or the violation of any other provision of this chapter, may be made to appear by the records of any court of competent jurisdiction; and in such case such records or duly certified copies thereof shall be conclusive evidence of the falsity or misrepresentation or of the commission of said act or of said violation.

The beer board may further fine a permit holder for any violation or may, in its discretion, offer the permit holder the alternative of paying a civil penalty as provided by state law.

Provided, further, that no person, firm, co-partnership, corporation, joint stock company, syndicate, association, or other group operating as a unit, whose permit and license are revoked by said board shall be eligible to make application for or be granted another permit under this chapter for a period of ten (10) years from the date said revocation becomes final.

Provided, further, that when a permit and license are revoked by said board pursuant to this chapter no new permit or license shall be issued for the same premises until the expiration of one (1) year from the date said revocation becomes final and effective. The beer board, in its discretion, may determine that the issuance of a license or permit before the expiration of one (1) year from

the date of the 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 statutes of intestate succession.

The secretary shall notify the Blount County Beer Committee of the revocation of any permit under this chapter. (1999 Code, § 8-216)

8-216. Inspection of beer businesses. The police officers of the City of Maryville shall have the right to inspect at any and all times the entire premises and property where or upon, or in which, the beverages regulated by this chapter are sold, stored, transported or otherwise dispensed or distributed or handled, whether at retail or wholesale, in the City of Maryville for any law violations. (1999 Code, § 8-217)

8-217. Special events permits. (1) The Maryville Beer Board is hereby authorized and empowered in its discretion to permit the retail sale or free distribution of beer for consumption on public property within approved special event zone within the city pursuant to a special event permit at such times and as part of such events and under such terms and conditions, rules and regulations as the Maryville Beer Board may establish which are not inconsistent with state law regulating the sale of beer. No special event permit shall exceed a duration of forty-eight (48) hours.

(2) Such sales or the distribution of beer shall be done in accordance with the requirements of this chapter except for provisions relating to obtaining a permit.

(3) Any bona fide charitable, non-profit or political organization conducting a special event within the city in which beer is contemplated to be sold or given away (but not under any other permit or exception issued under this chapter) shall apply for a special event permit at least forty-five (45) days in advance of such proposed special event in writing to the Maryville Beer Board through the city recorder. No more than two (2) applications will be considered per year per organization. An application fee of two hundred fifty dollars ($250.00) must be submitted with the application.

The application required by this part shall include, but not be limited to, the following:

(a) The applicant's name;

(b) The date and time of the proposed event;

(c) The address and telephone number of all individual applicants with the name, address and telephone number of a contact for corporate applicants;

(d) The identity of any persons, establishments or entities which are contemplated to participate in dispensing beer at locations other than their usual premises along with a copy of the current beer permit(s) for such participant vendor(s). Vendors of beer for the purpose of special

events permits only must have a valid beer permit issued by a governmental entity somewhere in the United States;

(e) The specific location where the beer is to be sold outside the premises of an establishment for which a beer permit previously has been issued;

(f) The specific parameters of the special event area;

(g) The anticipated number of persons attending such event;

(h) The applicant's certificate of insurance for the special event;

(i) A signed statement allowing the Maryville Beer Board to run a background check on criminal records of the applicant's CEO or executive director, or person in a similar position, if such applicant is not already in possession of a beer permit;

(j) Any plans for proposed temporary closure of public rights-of-way;

(k) Plans for security and policing the event; and

(l) Any other requirements deemed necessary by city staff.

(4) Upon receipt, the proposed application for a special event permit shall be placed on the Maryville Beer Board agenda at its next regularly scheduled meeting following the receipt of the notice. An applicant shall send a representative to such Maryville Beer Board meeting to address any questions or issues arising out of the proposed special event.

(5) A special event permit shall state on its face the name of the holder of the permit, the specific location, and the times and date where such vendor(s) is permitted to sell beer under the special event permit. A copy of the special event permit and a copy of the participant vendor's regular beer permit(s) must be displayed at each location where beer is sold by such vendor. (1999 Code, § 8-219)

8-218. <u>No permit required for certain private events</u>. No permit under this chapter shall be required for persons distributing, possessing or receiving beer as defined in this chapter in their private home or business on their private property when not open to the general public so long as no charge is assessed to the person for receiving said beverage and no charge is assessed for attending the event. (1999 Code, § 8-220)

8-219. <u>Caterer permits</u>. The City of Maryville will issue caterer's permits to allow persons who hold state-issued permits to serve wine and alcohol as a caterer to also be able to serve beer in the city as a caterer. "Caterer" shall have the same definition for the purpose of this section that it has under state law. Any holder of a city-issued caterer's permit shall have a valid Tennessee Alcoholic Beverage Commission ("TBAC") caterer's permit and shall provide a copy of the same to the city recorder with the initial application for a city caterer's permit and each year thereafter in order to renew the permit. The caterer must be engaged in the sale or service of beer where beer is to be

consumed by the customer or his or her guests upon the premises of the catered event site. Should the holder of a city-issued caterer's permit cease to hold a valid caterer's license from the TBAC, such caterer's permit pertaining to beer shall automatically be revoked. A city-issued caterer's permit shall be for one (1) year from the date of the issuance and shall only be valid for up to three (3) consecutive days at any single location within a one (1) week period. No caterer's permit shall be valid for the sale or consumption of beer on any premises within one hundred feet (100') of any church or public school to the nearest point of the premises where beer is sold or consumed, except that this provision shall not be applicable to permits located within the Central Business District, the Central Transition Zone, the Washington Street Commercial Corridor, and the High Intensity Commercial Zoning District of the City of Maryville. An application fee of two hundred fifty dollars ($250.00) must be submitted with the initial application. Renewal will be processed free of charge. (Ord. #2020-19, Aug. 2020)

8-220. Special event permits. The beer board is hereby authorized and empowered in its discretion to issue a special event permit allowing for the sale of beer within certain city sponsored or co-sponsored special events within the physical parameters of the special event zone during the time of the special event if otherwise provided by resolution of the city council pursuant to title 8, chapter 5 of the city code. A special event permit shall issue for such sale pursuant to the provisions of this chapter. The sale of beer under such special event permit shall be under such terms, conditions, rules and regulations as the beer board may establish which are not inconsistent with state law regulating the sale of beer.

Any person applying for a special event permit shall provide in the application for the permit a copy of its current valid permit to manufacture beer and/or sell beer at another location in the United States. Such license or permit shall be valid and in place at the time of application and at the time of the special event where beer is contemplated to be sold pursuant to the special event permit. Any persons selling beer pursuant to this section shall comply with this chapter unless otherwise indicated, as well as all other laws regarding the sale of beer in effect in the State of Tennessee. The location and duration of the permit shall be noted on the face of the permit as determined by the beer board. The city recorder may require such additional releases, affidavits and information as deemed appropriate as part of the application for a special event permit. (1999 Code, § 8-222)

8-221. Violations and penalty. Any violation of the provisions of this chapter shall be punishable by the beer board against the applicable permit holder to the full extent authorized by this chapter and by state law and against individual violators under the general penalty clause of this code. (1999 Code, § 8-218)

CHAPTER 3

LIQUOR STORES

SECTION

8-301. Definitions. Whenever used in this chapter, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Alcoholic beverage." Alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, and wine capable of being consumed by a human being other than medicine or beer as defined in *Tennessee Code Annotated,* § 57-5-101. Products or beverages including beer containing less than one-half percent (1/2%) alcohol by volume, other than wine as defined in this section, shall not be considered "alcoholic beverage" and shall not be subject to regulation or taxation pursuant to this chapter unless specifically provided.

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

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

(4) "Application." The form or forms, or other information an applicant or applicant group is required to file with the city in order to attempt to obtain

a local liquor store privilege license or certificate of compliance, as the context provides.

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

(6) "City." The City of Maryville, Tennessee.

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

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

(9) "Inspection fee." The monthly fee a licensee is required by this chapter to pay the amount of which is determined by a percentage of the gross sales of a licensee at a liquor store. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, such inspection fee shall be the same as if the local liquor store privilege license were held by a single licensee.

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

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

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

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

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

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

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

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

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

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

(20) "Wine." The product of normal alcoholic fermentation of juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climactic, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. (1999 Code, § 8-301)

8-302. Selling and distributing generally. It shall be unlawful for any person to engage in the business of selling or distributing alcoholic beverages within the corporate limits of the city except as provided by *Tennessee Code Annotated*, title 57 and by the rules and regulations promulgated thereunder and as provided under this title. (1999 Code, § 8-302)

8-303. Licenses required for sale of alcoholic beverages at retail. It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store provided that such sales are made in strict compliance with all federal statutes, all state laws, rules and regulations, and all provisions of this chapter and provided that such licensee has a valid and duly issued state liquor retailer's license and a valid and duly issued local liquor store privilege license from the city permitting him or her to sell alcoholic beverages at retail. Transfer of ownership or possession of any alcoholic beverage by a licensee in any manner other than by retail sale is prohibited. (1999 Code, § 8-303)

8-304. Licensee responsible for officers and agents. Each licensee shall be responsible for all acts of such licensee as well as the acts of a co-licensee, and acts of the licensee's officers, employees, agents and representatives so that any violation of this chapter by any co-licensee, officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (1999 Code, § 8-304)

8-305. Location of liquor store. It shall be unlawful for any licensee to operate or maintain a liquor store in the city unless the liquor store is located in a zone permitting such business. The zoning districts where liquor stores are permitted to be located in the city are as follows: Business and Transportation

District, High Intensity District, Washington Street Commercial Corridor, Central Business District, and Central Business Support Zone. Such liquor store shall not be located within one hundred fifty feet (150') of any church, school, public library or public park as measured along a straight line from the nearest property line of any such establishment to the front door of the liquor store. No liquor store shall be located where the operation of a liquor store at the premises contemplated by an application would unreasonably interfere with public health, safety or morals. (1999 Code, § 8-305)

8-306. Limitations on building containing liquor store. All liquor stores shall be a permanent type of construction in a material and design approved by city council. No liquor store shall be located in a manufactured or other movable or prefabricated type of building. All liquor stores shall have night light surrounding the outside of the premises and shall be equipped with a functioning burglar alarm system on the inside of the premises. The minimum square footage of the liquor store display area shall be one thousand, eight hundred (1,800) square feet. Full, free and unobstructed vision shall be afforded to and from the street and public highway to the interior of the liquor store by way of large windows in the front and to the extent practical to the sides of the building containing the liquor store. All liquor stores shall be subject to applicable zoning, building, life safety and city land development regulations unless specifically stated otherwise herein. (1999 Code, § 8-306)

8-307. Restrictions generally. (1) Entertainment devices and seating forbidden. No form of entertainment, including pinball machines, music machines or similar devices shall be permitted in any liquor store. No seating facilities, other than for employees of the liquor store, shall be permitted in any liquor store.

(2) Time and days of operation. No liquor store shall be open and no licensee shall sell, give away, or dispense alcoholic beverages except during the hours of 8:00 A.M. and 11:00 P.M. on Monday through Saturday and between 10:00 A.M. and 11:00 P.M. on Sunday. A liquor store shall not sell, give away or dispense alcoholic beverages on Christmas, Thanksgiving or Easter.

(3) Consumption on premises of liquor store. It shall be unlawful for any licensee to sell any alcoholic beverage for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith. It shall be unlawful for any person to consume any alcoholic beverage in a liquor store or in the immediate vicinity of a liquor store.

(4) Advertising. Advertising signage must be in conformance with all applicable requirements of state law and the administrative regulations of the Tennessee Alcoholic Beverage Commission. The size, height and placement of signs for liquor stores shall be governed by the sign regulations set forth in title 14 of the Maryville Municipal Code (Zoning and Land Use Control), § 14-217 Signs.

(5) Off-premises business. All retail sales of alcoholic beverages shall be confined to the premises of the liquor store. No curb service is permitted, nor shall there be permitted drive-in windows. No licensee shall employee any canvasser, agent, solicitor, or other representative for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of such consumer, nor shall any licensee receive or accept any such order which shall have been solicited and received at the residence or place of business of such consumer. This subsection shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises. (1999 Code, § 8-307)

8-308. Fees. (1) Amounts generally. There is hereby levied on each licensee an inspection fee of up to eight percent (8%), with the exact amount of such percentage to be determined from time to time by city council,[1] on the gross purchase price of all alcoholic beverages acquired by the licensee for retail sale from any wholesaler or any other source.

(2) Collection. Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee at the time the sale is made to the licensee. Payment of the inspection fee by the collecting wholesaler or other source shall be made to the city recorder on or before the twentieth day of each calendar month for all collections in the preceding calendar month. Nothing herein shall relieve the licensee of the obligation of payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee for his or her liquor store is made to the city recorder on or before the twentieth day of each calendar month for the preceding month. Wholesalers collecting and remitting the inspection fee to the city shall be entitled to reimbursement for this collection service in a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the city.

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

(4) Failure to pay fees. The failure to pay the inspection fees and to make the required reports accurately and within the time required by this chapter shall, at the sole direction of the city manager, be cause for suspension of the offending licensee's local liquor store privilege license for as much as thirty (30) days and, at the sole discretion of the city council, be cause for revocation of such local liquor store privilege license. Each such action may be taken by giving written notice thereof to the licensee, no hearing with respect to such an offense being required. If a license has been revoked, suspended or

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[1]Ordinances setting the inspection fees are of record in the office of the city recorder.

otherwise removed and owes the city inspection fees at the time of such suspension, revocation, or removal the city attorney may timely file the necessary action in a court of appropriate jurisdiction for recovery of such inspection fees. Further, each licensee who fails to pay, or have paid on his or her behalf, the inspection fees imposed hereunder shall be liable to the city for a penalty on the delinquent amount due in an amount of ten percent (10%) of the inspection fee.

(5) Use of fees. All funds derived from inspection fees imposed herein shall be used to defray expenses in connection with the enforcement of this title including particularly the payment and compensation of officers, employees, and other representatives of the city in investigating and inspecting licensees and applicants and in seeing that all provisions of this chapter are observed. The city council finds and declares that the amount of these inspection fees is reasonable, and that the funds expected to be derived from these inspection fees will be reasonably required for such purposes. (1999 Code, § 8-308)

8-309. Records kept by licensee. In addition to any records specified in the state rules and regulations, each licensee shall keep on file, at such licensee's liquor store, the following records:

(1) The original invoices of all alcoholic beverages bought by the licensee;

(2) The original receipts for any alcoholic beverages returned by such licensee to any wholesaler;

(3) A current daily record of the gross sales by such licensee with evidence of cash register receipts for each day's sales; and

(4) An accurate record of all alcoholic beverages lost, damaged, or disposed of other than by sale, and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverages involved and the name of the person or persons receiving the same.

All such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this section. (1999 Code, § 8-309)

8-310. Inspections generally. The city manager, the city recorder, the city finance director, the chief of police or the authorized representatives or agents of any of them are authorized to examine the premises, books, papers and records of any liquor store at any time the liquor store is open for business for the purpose of determining whether the provisions of this chapter are being observed. Refusal to permit such examination shall be a violation of this chapter and shall constitute sufficient reason for revocation of the local liquor store privilege license of the offending licensee, or for the refusal to renew the local liquor store privilege license of the offending license. (1999 Code, § 8-310)

8-311. Enforcement. Any violation of the terms of this chapter shall be punishable under the city's general penalty clause and, in the discretion of the city council, by any combination of a fine of up to five hundred dollars ($500.00) per violation, or temporary suspension or permanent revocation of the local liquor store privilege license where appropriate. Enforcement provisions are also applicable as found under the state law. (1999 Code, § 8-311)

8-312. Certificate of compliance. As a condition precedent to the issuance of a state liquor retailer's license by the state alcoholic beverage commission, city council may authorize the issuance of certificates of compliance by the city according to the terms contained herein. (1999 Code, § 8-312)

8-313. Application. (1) Filing--content. An applicant or applicant group for a liquor store shall file with the city recorder a completed written application on a form to be provided by the city recorder, which shall contain all of the following information and whatever additional information the city council or city manager may require:

(a) The name and street address of each person to have an interest, direct or indirect, in the liquor store as an owner, partner, stockholder or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information on the application provided by the city;

(b) The name of the liquor store proposed;

(c) The address of the liquor store proposed and its zoning designation;

(d) The statement that an individual applicant has been a resident of Blount County, Tennessee for at least two (2) years immediately prior to the time the application is filed, or in the case of an applicant group, that at least one (1) of the members of the applicant group has been a resident of Blount County, Tennessee for at least two (2) years prior to the time the application is filed;

(e) A statement that the persons receiving the requested license, to the best of their knowledge if awarded the certificate of compliance, could comply with all the requirements for obtaining the required licenses under state law and the provisions of this chapter for the operation of a liquor store in the city; and

(f) The agreement of each applicant or each member of an applicant group, as appropriate, to comply with all applicable laws and ordinances and with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission with reference to the sale of alcoholic beverages and the agreement of each applicant or each member of an applicant group as to the validity and the reasonableness of these

regulations, inspection fees, and taxes provided in this chapter with reference to the sale of alcoholic beverages.

(2) Further documentation. The application form shall be accompanied by a copy of each questionnaire form and other material to be filled out by the applicant or each member of the applicant group with the Tennessee Alcoholic Beverage Commission in connection with the same application and shall be accompanied by five (5) copies of a scale plan drawn to a scale of not less than one inch equals twenty feet (1"=20') giving the following information:

(a) The shape, size and location of the lot which the liquor store is to be operated under the license;

(b) The shape, size, height and location of all buildings whether they are to be erected, altered, moved or existing upon the lot;

(c) The off-street parking space and off-street loading and unloading space to be provided, including the vehicular access to be provided from these areas to a public street; and

(d) The identification of every parcel of land within one hundred fifty feet (150') of the lot upon which the liquor store is to be operated, indicating ownership thereof and the location of any structures thereon and the use being made of every such parcel.

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

(4) Misrepresentation--concealment of fact--duty to amend. If any applicant, member of an applicant group, or licensee misrepresents or conceals any material fact in any application form or as to any other information required to be disclosed by this chapter, such applicant, member of an applicant group, or licensee shall be deemed to have violated the provisions of this chapter and his or her application may be disregarded or his or her license restricted or revoked as deemed appropriate by city council. Further, no sale, transfer or gift of any interest of any nature, either financial or otherwise, in a liquor store shall be made without first obtaining a replacement license from the city upon the approval of the city council.

(5) Fees. Each application shall be accompanied by a non-refundable three hundred dollar ($300.00) investigation fee. One (1) application fee per applicant group is sufficient. (1999 Code, § 8-313)

8-314. Consideration. In issuing certificates of compliance (which shall total no more than three (3) in the corporate limits), the city council will consider all applications filed before a closing date to be fixed by it and select from such applications the persons deemed by it, in its sole discretion, to have the qualifications required by law and the most suitable circumstances for the lawful operation of the liquor store without regard to the order of time in which the applications are filed. Such persons and only such persons shall receive certificates of compliance issued by the city. Applications shall be retained by

the city until such time as all liquor stores for which certificates of compliance have been issued by the city are open for business. At that time, all pending applications which did not result in the granting of a certificate of compliance after consideration by city council will expire and be disposed of by the city. Applications can only be submitted to the city during the timeframe the city council has set for receipt of such applications. Applications and all matters submitted with or as part of such applications at the time they are submitted are the sole and exclusive property of the City of Maryville and constitute public records open to public inspection. If an additional certificate of compliance is made available by council adding to the number of liquor stores, the application process for the additional certificate of compliance shall not affect adversely any previous holder of a local liquor retailer's license and such previous holder's license shall remain in full force and effect. (1999 Code, § 8-314)

8-315. Restrictions upon issuance. (1) Additional certificates of compliance. The city council shall refuse to issue a certificate of compliance whenever the number of previously issued and outstanding certificates of compliance when added to the number of outstanding licenses equals the number of licenses authorized by this chapter.

(2) No violation of chapter. No certificate of compliance shall be issued unless a license issued on the basis thereof can be exercised without violating any provisions of this chapter.

(3) Prerequisites of issuance. The city manager upon approval of city council shall not sign any certificate of compliance for any applicant or applicant group until:

(a) Such application has been filed with the city recorder;

(b) The location stated in the certificate has been approved by the city council as a suitable location for the operation of a liquor store; and

(c) The application has been considered at a public meeting of the city council and approved by a vote of at least three (3) members thereof.

(4) Time period for action. Any applicant or applicant group who has obtained a certificate of compliance as provided herein must, unless an extension is granted by city council, within six (6) months open a liquor store in the city or said certificate will be revoked by the passage of this amount of time and a certification thereof will be sent to the Alcoholic Beverage Commission of the State of Tennessee, and the local liquor license issued pursuant to such application shall be considered canceled and revoked. (1999 Code, § 8-315)

8-316. License from city to operate liquor store. After an applicant or applicant group receives a license from the State of Tennessee to operate a retail liquor store pursuant to *Tennessee Code Annotated*, §§ 57-3-101, *et seq*., he or she shall apply to the city recorder for a local liquor retailer's license to

operate a retail liquor store pursuant to the following terms, conditions and restrictions. (1999 Code, § 8-316)

8-317. Restrictions on local liquor retailer's licenses. (1) Maximum number of licenses. No more than three (3) local liquor store privilege licenses for the sale of alcoholic beverages at liquor stores shall be issued under this chapter representing no more than three (3) liquor stores and no more than three (3) certificates of compliance issued in the city.

(2) Term renewal. Each license shall expire on December 31 of each year. A license shall be subject to renewal each year by compliance with all applicable federal statutes, state statutes, state rules and regulations and the provisions of this chapter.

(3) Display. A licensee shall display and post, and keep displayed and posted, his or her license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee.

(4) Transfer. A licensee or co-licensee shall not sell, assign or transfer his license or any interest therein to any other person. No license shall be transferred from one (1) location to another location without the express permission of city council.

(5) Fees. A license fee of five hundred dollars ($500.00) is due at the time of application for a license and annually prior to January 1 each year thereafter. The initial license shall remain in effect for the remainder of the calendar year when it is first issued so that the first year may not be a full year period. The license fee shall be paid to the city recorder before any license shall issue. (1999 Code, § 8-317)

8-318. Restrictions upon licensees and employees. (1) Initial qualifications. To be eligible to apply for or to receive a license an applicant, or in the case of an applicant group, each member of the applicant group, must satisfy all of the requirements of the state statutes and of the state rules and regulations for the holder of a liquor retailer's license.

(2) Public officers and employees. No license shall be issued to a person who is a holder of a public office either appointed or elected, or who is a public employee either national, state, city or county. It shall be unlawful or any such person to have any interest in such liquor store either directly or indirectly, either proprietary or by means of a loan or participation in the profits of any such business. This prohibition shall not apply, however, to uncompensated, appointed members of boards or commissions who have no duties covering the regulation of alcoholic beverages or beer.

(3) Felons. No licensee shall be a person who has been convicted of a felony within ten (10) years prior to the time he or she, or the legal entity which he or she is connected, shall receive a license; provided, that this provision shall not apply to any person who has been so convicted but whose rights of

citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. In case of such conviction occurring after a license has been issued and received, the license shall immediately be revoked if such convicted felon is an individual licensee and, if not, the partnership, corporation, limited liability company or association with which he or she is connected shall immediately discharge him or her, and he or she shall have no further interest therein or else such license shall be immediately revoked.

(4) Employee felons. No licensee shall employ in the storage, sale, or distribution of alcoholic beverages any person who, within ten (10) years prior to the date of his or her employment, shall have been convicted of a felony. In the case that an employee is convicted of a felony while he is employed by a licensee at a liquor store, he or she shall be immediately discharged after his or her conviction; provided, that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction.

(5) Liquor offenses. No license shall be issued to any person who, within ten (10) years preceding application for such license or permit, shall have been convicted of any offense under the laws of this state or any state, or of the United States regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling of intoxicating liquors or beer who has during such period been engaged in business, alone or with others, in violation of any such laws or rules and regulations.

(6) Disclosure of interest. It shall be unlawful for any person to have ownership in or participate in, either directly or indirectly, the profits of any liquor store unless his or her interest in such business and the nature, extent and character thereof shall appear on the application, or if the interest is acquired after the issuance of a license unless it be fully disclosed to the city manager and approved by him or her in a timely manner.

(7) Age. No licensee shall be a person under the age of twenty-one (21) years, and it shall be unlawful for any licensee to employ any person under the age of eighteen (18) years for the physical storage, sale or distribution of alcoholic beverages or to permit any such person under such age in his place of business to engage in the storage, sale or distribution of alcoholic beverages.

(8) Interest in only one (1) liquor store. A person shall have an interest, either direct or indirect, in no more than one (1) liquor store licensed under this chapter in the City of Maryville. (1999 Code, § 8-318)

8-319. Nature of license; suspension or revocation. The issuance of a license does not vest a property right in the licensee but is a privilege subject to revocation or suspension. Any license shall be subject to suspension or revocation by city council for any violation of this chapter by the licensee or by any person whose acts the licensee is responsible for. The licensee shall be given reasonable notice and an opportunity to be heard before the city council suspends or revokes a license for any violation unless provided otherwise

specifically herein. If the licensee is convicted of a violation of this chapter by a final judgment in any court, and the operation of the judgment is not suspended by an appeal, upon written notice to the licensee, the city manager may immediately suspend the license for a period not to exceed sixty (60) days, and the city council may revoke the license on the basis of such conviction thereafter. A license shall be subject to revocation or suspension without a hearing whenever such action is expressly authorized by other provisions of this chapter stating the effect of specific violations. (1999 Code, § 8-319)

CHAPTER 4

PROOF OF AGE

SECTION

8-401. Identification required prior to the sale of beer or alcoholic beverages. Any person selling beer or alcoholic beverages within the corporate limits of the City of Maryville, Tennessee shall be required to have produced to him or her a facially valid government issued identification showing that the age of the prospective purchaser of the beer or alcoholic beverages is twenty-one (21) years of age or older. If such identification is not produced by the prospective purchaser, the beer or alcohol beverages shall not be sold. Such identification shall be required prior to the sale of beer or alcoholic beverages regardless of the apparent age of the prospective purchaser. The identification provided shall be a document issued by a state governmental agency. (1999 Code, § 8-401)

8-402. Signs required. Any establishment within the corporate limits of the City of Maryville, Tennessee which sells beer or alcoholic beverages shall prominently display on the premises a sign not less than six inches (6") high and ten inches (10") wide reading: "A minor attempting to purchase alcoholic beverages will be prosecuted to the fullest extent of the law." Such establishment shall further prominently display a sign not less than six inches (6") high and ten inches (10") wide reading: "Any person selling beer or alcoholic beverages within the corporate limits of the City of Maryville, Tennessee shall be required to have produced to him or her a facially valid government issued identification showing that the age of the prospective purchaser of the beer or alcoholic beverages is twenty-one (21) years of age or older. If such identification is not produced by the prospective purchaser, the beer or alcohol beverages shall not be sold. Such identification shall be required prior to the sale of beer or alcoholic beverages regardless of the apparent age of the prospective purchaser. The identification provided shall be a document issued by a state governmental agency."

Signs required under this section shall be purchased by each license holder of any beer, liquor or alcoholic beverage sales license in the City of Maryville at a reasonable price from the City of Maryville. (1999 Code, § 8-402)

8-403. Exception; on-premises consumption permit holders. Any holder of a permit allowing on-premises consumption of beer or alcoholic beverages in the city limits shall be permitted to serve beer or alcoholic beverages to a person without seeing identification provided in § 8-401 of this chapter if, in the discretion of a manager on the premises, a person wishing to purchase such beverages beyond a reasonable doubt is twenty-one (21) years of age or older. (1999 Code, § 8-403)

8-404. Exception; persons sixty years of age or greater. Any person showing state issued identification proving that their age is sixty (60) years of age or greater shall not be required to show a photo identification but instead shall be allowed to purchase alcoholic beverages based on the state issued identification which does not include a photograph. (1999 Code, § 8-404)

8-405. Violations and penalty. Violation of any part of this chapter alone shall not subject a permit holder to revocation of his or her beer permit or permit to sell liquor or alcoholic beverages as issued by the City of Maryville. Penalties for violation of this chapter shall be as follows:

First offense:	Written warning to the permit holder and a person who failed to require presentation of identification as set forth herein, if appropriate.
Second offense:	Up to a two hundred dollar ($200.00) fine by the beer board to the permit holder and up to a fifty dollar ($50.00) fine in city court for the person who failed to require presentation of identification as set forth herein, as appropriate.
Third offense:	Discretion of the beer board and city court as appropriate.

(1999 Code, § 8-405)

CHAPTER 5

CERTAIN SPECIAL EVENTS ALLOWING FOR CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES AND/OR BEER ON PUBLIC PROPERTY

SECTION

8-501. Public consumption and possession of alcoholic beverages and/or beer permitted on public property in downtown area in the special event zone in certain defined parameters during city sponsored or co-sponsored special events. It shall be lawful for any person to consume and possess alcoholic beverages and/or beer on public property in the downtown area during special events within the special event zone if the person is otherwise legally permitted to possess and consume alcoholic beverages and/or beer if such consumption is expressly approved by the city council for the special event. Such person who consumes and possesses alcoholic beverages and/or beer if permitted by the city council on public property will not be considered in violation of city code provisions that otherwise prohibit public possession and consumption of alcoholic beverages and beer so long as such activity is within the physical parameters of the special event zone during a permitted special event. Alcoholic beverages and beer consumed or possessed during a special event in a special event zone on public property shall be consumed in a plastic container. There shall be no glass containers of alcoholic beverages or beer permitted on public property during a special event in a special event zone. (1999 Code, § 8-501)

8-502. Definitions. For the purposes of this chapter, the following words shall have the meanings described:

(1) "Alcoholic beverages" means to include alcohol, spirits, liquor, wine, high alcoholic content beer, and every liquid containing alcohol, spirits or wine capable of being consumed by a human being other than patented medicine or beer as defined below.

(2) "Beer" means beer, ale or malt beverages or any other beverage having an alcohol content as of not more than eight percent (8%) by weight, except wine as defined in *Tennessee Code Annotated*, § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic

content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol.

(3) "Downtown area" means the boundaries of the designated downtown area are as follows:

(a) Beginning at a point in the intersection of U.S. Hwy. 321 and Court Street and continuing along Court Street in a northwesterly direction to the bridge over Pistol Creek.

(b) Then following the course of Pistol Creek downstream in a northeasterly, northwesterly and southwesterly direction around the Maryville Central Business District to a point below the dam for the Greenbelt Lake where the creek abuts the right-of-way of McCammon Avenue.

(c) Then following McCammon Avenue in a southeasterly direction to its intersection with McGee Street.

(d) Then following McGee Street in a southwesterly direction to the southwestern property line of Maryville Towers.

(e) Then in a southeasterly direction along the property line of Maryville Towers, continuing in a southeasterly direction along Cates Street, and the extension of the Cates Street right-of-way to U.S. Hwy. 321.

(f) Then in a northeasterly direction along U.S. Hwy. 321 to Court Street, being the point of beginning.

(4) "Public property" means any property owned or maintained by the City of Maryville, Blount County, Tennessee, or any public utility within the geographical boundaries of the special event zone.

(5) "Special event zone" means the special event zone shall be a defined area within the downtown area approved on a case by case basis and the resolution allowing the city sponsored or co-sponsored special event to take place where public consumption and possession of alcoholic beverages and/or beer is allowed during a special event. The city police will reasonably mark the special event zone with tape, signage or otherwise to allow participants in the special event to know the parameters of the special event zone. The "special event zone" will be delineated by reference to the specific landmarks within the downtown area or by metes and bounds description in the resolution providing for the special event

(6) "Special events" means an event sponsored or co-sponsored officially by the City of Maryville within certain times where possession and consumption of alcohol is permitted by the resolution providing for sponsorship or co-sponsorship of the special event within the special event zone in the downtown area. It shall be entirely within the discretion of the city council to approve or disapprove by resolution a special event to qualify as one (1) that allows the public consumption and possession of alcoholic beverages or beer as set forth herein. All applications for such special event shall be made through the city special events coordinator who will then present the resolution to city

council if the event meets the criteria for such city sponsored or co-sponsored special event or promulgated by the special events coordinator. (1999 Code, § 8-504)

8-503. Violations and penalty. Any person violating or interfering with the enforcement of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished under the general penalty clause of the municipal code. (1999 Code, § 8-503)

CHAPTER 6

SALE OF WINE IN RETAIL FOOD STORES

SECTION

8-601. Definitions. Whenever used in this chapter, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Applicant" means a person applying for a certificate of compliance.

(2) "Application" means the form or forms, or other information an applicant is required to file with the city in order to attempt to obtain a certificate of compliance.

(3) "At retail" means a sale to any person for any purpose other than for resale.

(4) "Certificate" or "certificate of compliance" means the certificate required pursuant to *Tennessee Code Annotated*, § 57-3-806, as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this chapter for issuance of such a certificate.

(5) "City" means the City of Maryville, Tennessee.

(6) "License" means a license issued by the alcoholic beverage commission of the State of Tennessee pursuant to *Tennessee Code Annotated*, § 57-3-803, as the same may be amended, supplemented or replaced.

(7) "Licensee" means any person holding a license, as that term is defined in this chapter.

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

(9) "Retail food store" means an establishment that is open to the public and that derives at least twenty percent (20%) of its taxable sales from the retail sale of food and food ingredients for human consumption taxed at the rate provided in *Tennessee Code Annotated*, § 67-6-228(a) and that has retail floor space of at least one thousand, two hundred (1,200) square feet.

(10) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, as further defined by *Tennessee Code*

Annotated, § 57-3-802(2), as the same may be amended, supplemented or replaced. (1999 Code, § 8-601)

8-602. License required for sale of wine in retail food stores. Beginning on January 1, 2019, wine may be sold in retail food stores but only between the hours of 8:00 A.M. and 11:00 P.M. Monday through Saturday and between the hours of 10:00 A.M. and 11:00 P.M. on Sunday. (1999 Code, § 8-602)

8-603. Certificate of compliance. As a condition precedent to the issuance of a state license for the sale of wine in a retail food store, an applicant for a license shall first obtain a certificate of compliance from the city, pursuant to *Tennessee Code Annotated*, § 57-3-806. A certificate of compliance issued under this chapter shall be valid only for the premises proposed in the application, and any change of location of the business shall be cause for immediate nullification of the certificate. No certificate of compliance shall be issued for the sale of wine in a retail food store where such store would be a prohibited use under the city's zoning ordinance. (1999 Code, § 8-603)

8-604. Application for certificate of compliance. The application for a certificate of compliance shall be submitted in writing on the form furnished by the city recorder and shall contain the following information and whatever additional information the city may require:

(1) The name and street address of each person who will be in charge of or in control of the business, and a statement that the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application with the state alcoholic beverage commission and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application;

(2) The name and address of the proposed retail food store applying for a license, and a statement that the applicant or applicants have secured a location for the business, which complies with all zoning laws of the city; and

(3) That the applicant or applicants have complied with this chapter and the applicable state laws on retail food store wine sales. (1999 Code, § 8-604)

8-605. Issuance of certificate of compliance; appeal. Upon verification that the applicant meets the requirements of *Tennessee Code Annotated*, § 57-3-806(b), the city mayor may issue the certificate without action by the city council. Alternatively, the city council may issue the certificate upon signature by a majority of its members. A failure on the part of the issuing authority to grant or deny the applicant's request for the certificate of compliance within sixty (60) days of the written application shall be deemed a granting of the certificate. If an applicant is denied a certificate of compliance,

the applicant may seek review of such denial by instituting an action in chancery court within sixty (60) days of the denial. (1999 Code, § 8-605)

8-606. Full and accurate disclosure required. Each application for a certificate of compliance under this chapter shall identify each person who is to be in actual charge of the business and, if a partnership, limited liability company or corporation, each executive officer or manager of the partnership, limited liability company or corporation and each individual in control of the business. For the purposes of this section, an individual who owns or have an ownership interest in at least fifty percent (50%) of the stock of a business is considered to be in control of the business.

Misrepresentation of a material fact, or concealment of a material fact required to be shown in the application for a certificate, shall be a violation of this chapter. The city may refuse to issue a certificate if, upon investigation, the city finds that the applicant for a certificate has concealed or misrepresented any material fact or circumstance concerning the operation of the business, or if the interest of any person in the operation of the business is not truly stated in the application, or in case of any fraud or false statements by the applicant pertaining to any matter relating to the operation of the business. All information, written statements, affidavits, evidence or other documents submitted in support of an application are a part of the application. (1999 Code, § 8-606)

8-607. Expiration of certificate of compliance; new application. A certificate for the sale of wine in a retail food store shall expire and become void if the applicant to whom the certificate was granted fails to apply for a license from the alcoholic beverage commission within six (6) months of the date of the certificate, or if the retail food store for which a certificate was granted is not in operation within twelve (12) months following the issuance of the certificate; provided, however, that the mayor or a majority of the city council may, upon written request of the applicant, extend the expiration date of a certificate for up to three (3) additional months in the event of circumstances beyond the applicant's control. If a certificate becomes void, no new certificate may be issued to the same applicant unless a new application is submitted and all applicable requirements of this chapter are met at the time the new application is received. (1999 Code, § 8-607)

8-608. Licensee responsible for officers and agents. Each licensee shall be responsible for all acts of such licensee as well as the acts of a co-licensee, and acts of the licensee's officers, employees, agents and representatives so that any violation of this chapter by any co-licensee, officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (1999 Code, § 8-608)

8-609. Enforcement. Any violation of the provisions of this chapter shall be punishable under the city's general penalty clause and, in the discretion of the city council, by a fine of up to fifty dollars ($50.00) per violation or revocation of the certificate of compliance. The mayor may revoke a certificate of compliance, provided that the applicant or licensee may appeal the revocation to the city council, which may reverse the mayor's action by majority vote. Enforcement provisions are also applicable as found under the state law. (1999 Code, § 8-609)

8-610. Chapter not applicable to beer. No provision of this chapter shall be considered or construed as in any way modifying, changing or restricting the rules and regulations governing the sale, storage, transportation, etc., or tax upon beer as defined in § 8-201. (1999 Code, § 8-610)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

9-101. "Going out of business" sales. It shall be unlawful for any person falsely to represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1999 Code, § 9-101)

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

9-102. Garage sales. (1) For the purposes of this section, the following terms are defined and shall be construed as follows:

(a) "Garage sale" means the offering for sale or exchange, or the sale or exchange, to the public of any personal property of any kind or description at a sale held upon privately-owned residential property.

(b) "Residential property" means any real estate, lot or tract in the City of Maryville which is used primarily for residential purposes.

(2) It shall be unlawful for any person, firm, partnership, corporation or association to advertise, promote, conduct or hold any garage sale within the corporate limits of the City of Maryville except as herein provided.

(3) Not more than two (2) garage sales may be held during any calendar year at any one (1) residential property, the duration of each sale not to exceed three (3) days; and, provided further, that before any such sale may be held, application to hold said sale must be made by the occupant of said property to the city inspection officer who shall issue a written permit without charge or fee therefor; and, provided further, that all personal property offered for sale or sold at said sale shall be owned at the time of sale by the occupant of said residential property and shall not have been purchased by the occupant for the purpose of resale. In the case of a coordinated neighborhood garage sale, residents may apply for their permits individually, or a representative of the neighborhood can apply on behalf of the various participants, so long as the representative can identify the names and addresses of all the participants. In either case, the sale shall count toward the two (2) permissible annual garage sales for each participating residential location.

(4) Court-ordered sales and sales by executors or administrators in the settlement of estates are excepted from the provisions of this section.

(5) Sales of personal property which are advertised by newspaper or radio for private appointment only and are, in addition, not advertised by sign or signs either on or off of the premises, and are, in addition, not exhibited on the premises in such manner as to indicate a public sale, are exempt from the provisions of this section.

(6) As set forth in subsection (1)(a) above, the term "garage sale" applies only to sales held by residents upon privately-owned residential property. Private individuals cannot hold garage sales off-site on non-residential property, even with the property owner's permission.

(7) All businesses and all business establishments which are properly licensed to conduct retail or wholesale sales are exempt from the provisions of this section. Said businesses may display their goods out of doors and/or hold "sidewalk sales" if allowed by the zoning and land use ordinance and, as long as adequate parking is retained for customers, as long as such display activities and/or outdoor sales areas do not create traffic congestion on adjoining streets and rights-of-way, and as long as any designated fire lanes are adequately protected and preserved from any encroachments. (1999 Code, § 9-102)

9-103. Public rummage sales. (1) For the purposes of this section, the term "public rummage sale" is defined as a sale that is organized or operated for charitable, religious, community or educational purposes and which is conducted by an organization, corporation, church, civic club, etc., where members of the group donate or solicit items for the organization to sell from the organization's location for the purpose of raising money for use by themselves or others. For the purpose of this section, "sale" means either a cash transaction or the giving away of items in return for a donation.

(2) Not more than two (2) outdoor public rummage sales may be held during any calendar year at any one (1) location, the duration of the sale may not exceed three (3) days; and, provided further, that before any such sale may be held an application to hold said sale must be made by an officer or authorized representative of said organization.

(3) Indoor public rummage sales may be held no more than once a month for no more than two (2) consecutive days, as long as no goods are displayed out of doors.

(4) A public rummage sale must be held on property that is used primarily for non-residential purposes. Organizations that do not have their own physical location may apply for a public rummage sale permit on an independently owned site with the property owner's written permission as part of the application.

(5) Any site proposed for a public rummage sale must have adequate area to allow for the outdoor display of goods, if any, and enough parking to accommodate customers without creating traffic congestion on adjoining streets and rights-of-way. (1999 Code, § 9-103)

9-104. Flea markets. For the purposes of this section, the term "flea market" is defined as a building, or portion of a building, where individual market stalls or spaces are rented or leased by persons on a daily or other basis, to display, buy, sell, exchange or deal in new or used goods and services. Flea markets are sometimes referred to as swap meets, and would also include antique malls and similar uses. In the City of Maryville, flea markets must be conducted wholly within an enclosed building. Outdoor flea markets are not permitted. Flea markets are regulated as retail businesses and must have a current business license, and shall be located and developed in accordance with applicable zoning and building code regulations. (1999 Code, § 9-104)

9-105. Farmers' markets. For the purposes of this section, the term "farmers' market" is defined as an occasional or periodic market, with goods offered for sale to the general public by individual sellers from open-air or semi-enclosed facilities, or temporary structures. Food and agricultural products that are primarily local in origin must comprise the majority of items for sale, along with horticultural products and locally produced craft items. Secondhand goods cannot be offered for sale. (1999 Code, § 9-105)

9-106. Consignment stores and thrift shops. (1) For the purposes of this section, the following terms are defined and shall be construed as follows:

(a) "Consignment store" means a retail business establishment in which the proprietor primarily sells used items (generally clothing) owned by third parties in return for a percentage of the sales proceeds.

(b) "Thrift shop" means a retail business establishment in which the proprietor primarily sells used items (generally clothing, household goods and children's items) that have been acquired through donation or purchase, with the proprietor retaining the sales proceeds. Some thrift shops are managed by non-profit organizations that use the proceeds to support their charitable operations.

(2) Both consignment stores and thrift shops are retail business operations that must conform to the city's zoning ordinance and its business licensing requirements. (1999 Code, § 9-106)

9-107. Private vehicle sales. (1) For the purpose of this section, the following terms are defined and shall be construed as follows:

(a) "Private vehicle sale" means the offering for sale or exchange, or the sale or exchange, to the public of any vehicle including a car, truck or motorcycle (or any other type of vehicle that requires a license for operation on public streets) at a sale held on privately-owned residential property.

(b) "Residential property" means any real estate, lot or tract located in the City of Maryville which is used primarily for residential purposes.

(2) It shall be unlawful for any person, firm, partnership, corporation or association to advertise, promote, conduct or hold any private vehicle sale within the corporate limits of the City of Maryville except as provided herein.

(a) Not more than one (1) private vehicle sales may be held during any one (1) calendar year at any one (1) residential property. The vehicle offered for the private vehicle sale shall be owned at the time of the sale by the occupant of the residential property, and shall not have been purchased by the occupant for the purpose of resale.

(b) Each such private vehicle sale may last no longer than sixty (60) continuous days.

(c) Court ordered sales and sales by executors or administrators in the settlement of estates are exempted from the provisions of this section.

(d) Sales of vehicles which are advertised by newspaper or radio for private appointment only and which are not advertised by signs either on or off the premises or on the vehicle, and are not exhibited on the premises in such a manner to indicate public sale, are exempt from the provisions of this section. (1999 Code, § 9-107)

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.[1]

SECTION

9-201. Permit required. It shall be unlawful for any peddler, solicitor, street barker, or transient vendor to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1999 Code, § 9-201, modified)

9-202. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Peddler" means any person who individually or as an agent or employee of any firm, corporation, or organization, who has no permanent regular place of business and who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale, or offering personal services for sale.

(2) "Solicitor" means any person, who individually or as an agent or employee of any firm, corporation or organization, who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, personal property of any nature whatever for future delivery, or services of any kind or nature, except that the term shall not include solicitors for charitable and religious purposes as that term is defined below.

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

(3) "Solicitor for charitable or religious purposes" means any person who individually or as an agent or employee of any firm, corporation or organization who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, soliciting contributions from the public for any charitable or religious organization. No person, firm, corporation or organization shall qualify as a solicitor for religious purposes unless it meets one (1) of the following conditions:

(a) Has a current exemption certificate from the Internal Revenue Service issued under § 501(c)(3) of the Internal Revenue Service Code of 1954, as amended, being 26 U.S.C.§§ 1 *et seq*.

(b) Is a member of United Way, Community Chest or a similar "umbrella" organization for charitable or religious organizations organized and operating in the Blount County area.

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

(4) "Street barker" means any person who engages in the business or conduct as a peddler individually or as an agent or employee of any firm, corporation or organization during recognized festival or parade days in the city and who limits his business to selling, or offering to, sell novelty items and similar goods in the area of the festival or parade.

(5) "Transient vendor" means any person who individually or as an agent or employee of any firm, corporation or organization who brings into temporary premises and exhibits stocks of merchandise to the public, or offers to perform services or entertainment. "Transient vendor" does not include any person selling goods by sample, brochure, or sales catalog for future delivery, or to sales resulting from the prior invitation to the seller by the owner or occupant of a business or residence. For purposes of this definition, "merchandise" means any consumer item that is, or is represented to be, new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle, which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months. (1999 Code, § 9-202)

9-203. <u>Exemptions</u>. The terms of this chapter shall not apply to:

(1) Persons selling at wholesale to dealers, newsboys, or bona fide merchants who merely deliver goods in the regular course of business;

(2) Persons selling agricultural products, who themselves produced the products being sold;

(3) Persons involved in fund raising activities or programs by any public school; and

(4) Craft shows, antique shows, gun shows, auto shows and similar temporary shows and exhibits which are not open or operating as public facilities for such particular purpose for more than fourteen (14) days during any calendar year, except that the owner, manager, operator or promoter of each such facility shall be required to obtain a business license and shall, prior to opening and operating such facility, pay a fee of one hundred dollars ($100.00) to the City of Maryville which shall be valid at the particular location for up to fourteen (14) consecutive days. This exemption does not apply to a carnival or fair as defined in this title. Instead, a carnival or fair must expressly obtain a transient vendor license in order to lawfully operate a carnival or fair within the city. (1999 Code, § 9-203)

9-204. Eligibility. It is the intent of this section to treat each person, and each firm, corporation and organization, and each agent for same, and each person who, as an employee or who in any other capacity for such firm, corporation or organization, is covered by this chapter as a separate person for the purposes of investigation and payment of the permit fee.

Individuals, firms, corporations and organizations are eligible for a permit under this chapter. Persons applying for an individual permit under this chapter shall complete an application on forms provided by the city, and pay the permit fee. Agents applying for a permit for a firm, corporation, or organization under this chapter shall complete a separate application, and pay a separate permit fee, for the firm, corporation or organization, and the agent and for each individual who, as an employee of, or in any other capacity for, the firm, corporation or organization, will engage in the business or conduct of a peddler, solicitor, transient vendor, or street barker. (1999 Code, § 9-204)

9-205. Permit procedure. (1) Application form. The application shall be sworn to by the applicant, and shall contain:

(a) Name, date of birth, social security number or other identification number of the applicant, his or her physical description, and a copy of his or her driver's license.

(b) The following complete addresses and telephone numbers of the applicant:

(i) Permanent.

(ii) Permanent business.

(iii) Local residential.

(iv) Local business.

(c) If the applicant is an agent or employee of a firm, corporation or organization, the written credentials establishing the applicant's employee or any other agency relationship with the firm, corporation or organization.

(d) A statement as to whether or not the applicant has been convicted of any felony within the past ten (10) years, or any misdemeanor other than a minor traffic violation within the past three (3) years, the date and place of any conviction, the nature of the offense, and the punishment or penalty imposed.

(e) The last three (3) cities, towns, or other political subdivisions (if that many) the applicant engaged in the business or conduct as a peddler, solicitor, solicitor for religions or charitable purposes, transient vendor, or street barker immediately prior to making application for a permit under this chapter, and the complete addresses, if any, of the applicant listed under subsection (b) above in those cities, towns or other political subdivisions.

(f) Two (2) photographs of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, measuring at least two inches by two inches (2" x 2"), and showing the head and shoulders of the applicant in a clear and distinguishing manner.

(g) A brief description of the type of business and the goods to be sold, or in the case of solicitors for charitable or religious purposes, the function of the organization.

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

(i) The make, model, complete description, and license tag number and state of issue of each vehicle the applicant intends to use to make sales or solicitations, whether or not such vehicle is owned by the person making sales or solicitations, or by the firm, corporation or organization itself, or rented or borrowed from another business or person.

(j) Tennessee state sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit as a peddler, solicitor, or transient vendor shall submit with his application a non-refundable fee of one hundred dollars ($100.00). Each applicant for a permit as a street barker shall submit with his application a non-refundable fee of seventy-five dollars ($75.00). There shall be no fee for an application for a permit as a solicitor for charitable or religious purposes.

(3) Denial or approval of permit. (a) Investigation. Upon the receipt of the application and the payment of the permit fee, the chief of police, or his authorized designee, shall make an investigation of the applicant for the protection of the public health, safety and general welfare of the public. Each person applying for a permit shall be fingerprinted by the chief of police, or his designee, except that this requirement shall not apply to persons soliciting or peddling for charitable or religious purposes. The police chief shall make a good faith effort to complete the investigation within three (3) complete working days, excluding Saturdays, Sundays and holidays of the city. If the investigation is not complete within that period, the reasons shall be

noted on the application. In no event shall the period of the investigation exceed ten (10) days.

(b) Denial of permit. The city recorder shall deny the applicant permit if the investigation discloses that:

(i) The applicant has been convicted of a felony within the past ten (10) years or has been convicted of a misdemeanor, other than a minor traffic violation, within the past three (3) years;

(ii) Any information in the application that is materially false or misleading;

(iii) The business reputation of the applicant is such that the applicant constitutes a threat to the public health, safety or general welfare of the citizens of the city; or

(iv) The information supplied in the application is insufficient to permit the chief of police to make a determination under subsections (i), (ii) or (iii) above.

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

(c) Approval of permit. If the investigation discloses no grounds for the denial of the permit, the city recorder shall issue a permit to the applicant.

(d) Appeal of denial. The refusal of the police chief to issue a permit may be appealed to the city manager. The aggrieved applicant may within ten (10) days following the date the notice of the refusal of the police chief to issue a permit was mailed to the applicant, appeal the refusal by giving the city manager written notice of appeal, stating the grounds for the appeal. The city manager shall set a hearing on the appeal for a date falling within ten (10) days following the date of the receipt of the appeal. The decision of the city manager shall be final.

(4) The permit. The permit shall show the name of the permittee and (if the permittee is a firm, corporation or organization) the name of the solicitor, solicitor for charitable purposes, street barker or transient vendor, the kind of goods and/or services authorized to be sold, the amount of the permit fee paid, the date of issuance of the permit, and the period of the permit, and shall have attached a copy of a photograph of the permittee.

(5) Expiration and renewal of permit. The permit of peddlers, solicitors, and peddlers and solicitors for religious and charitable purposes shall expire sixty (60) days from the date of issuance. The permit of street barkers shall be valid for a period corresponding to the dates of the recognized parade or festival days of the city. An application for renewal shall be made in

substantially the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions that have changed since the last application was filed. (1999 Code, § 9-205, as amended by Ord. #2020-1, Jan. 2020)

9-206. Business license required. Each person, or each firm, corporation or organization issued a permit under this chapter as a peddler, solicitor, street barker or transient merchant shall be required to obtain an appropriate business license before soliciting or making sales. (1999 Code, § 9-206)

9-207. Restrictions on permit holders in general. No person while conducting the business or activity of peddler, street barker, solicitor, solicitor for charitable or religious purposes, or transient vendor shall:

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

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

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

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

(5) Enter, or attempt to enter, in or upon any residential or business premises wherein the authorized owner, occupant or person legally in charge of the premises has in a conspicuous place posted, at the entry to the premises or at the entry to the principal building of the premises, a sign or placard in letters at least one inch (1") high bearing the notice "Peddlers Prohibited," "Solicitors Prohibited," "Peddlers and Solicitors Prohibited," or similar language of the same import, is located.

(6) Enter in, or upon, any residential premises without prior invitation of the authorized owner, occupant or person legally in charge of the premises between 7:00 P.M. and 8:00 A.M. (1999 Code, § 9-207)

9-208. Additional restrictions on transient vendors. A transient vendor shall not:

(1) Advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver of manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water, or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

(2) Locate temporary premises, as the term is defined in this chapter, on or in any public street, highway or any other public way or place, or on private property without the written permission of the property owner or other person in authorized control of the property. (1999 Code, § 9-208)

9-209. Display of permit, business license, etc. Each peddler, solicitor, and street barker is required to have, in his possession, a valid permit and business license, and each transient vendor is required to have, in his possession, a valid permit, business license, and the written permission of any private property owner, or other person in control of the property owned from which he or she is conducting business, while making sales or solicitations, and all shall be required to display the same to any police officer upon demand. Solicitors for charitable and religious purposes shall be required to have, in their possession, a valid permit. (1999 Code, § 9-209)

9-210. Revocation of permit. (1) Causes. The permit issued to any person or to any firm, corporation or organization under this chapter may be revoked by the city manager for any of the following causes:

(a) Fraud, misrepresentation, or false or misleading statement contained in the application for a permit.

(b) Fraud, misrepresentation, or false or misleading statement made by the permittee in the course of the business or conduct of a peddler, solicitor, solicitor for charitable or religious purposes, transient vendor or street barker.

(c) Any violation of this chapter.

(d) Any other conduct of the permittee that constitutes a threat to the health, safety or general welfare of the citizens of the city.

(2) The notice of revocation. (a) City manager's option. The city manager shall have the option of revoking the permit effective immediately after notice, or effective after notice and hearing. However, the city manager shall revoke the permit effective immediately only after a written finding of the reasons that to delay the revocation of the permit would represent an intolerable threat to the health, safety or general welfare of the citizens of the city.

(b) Notice if the permit holder is a person. If the permit holder is a person, the city shall make a reasonable effort to personally deliver the notice of revocation effective to the permit holder. If the permit holder cannot be found after such reasonable effort, the notice shall be sent by registered or certified United States mail to the local residential or business address of the permit holder. If the permit holder has no local residential or business address the notice shall be sent to the permit holder's permanent address.

(c) Notice if the permit holder is a firm, corporation or organization. The personal notice provided for above may be given to the

agent of the firm, corporation or organization, or to any employee or agent of the firm, corporation, or organization; otherwise, the notice procedure prescribed by subsection (b) above shall apply where the permit holder is a firm, corporation or organization.

(d) A transient vendor permit may be revoked if the property on which such vending is occurring has inadequate parking retained on-site for customers (either for an established business and/or for the transient vending activities), as evidenced by the creation of traffic congestion on adjoining streets and rights-of-way.

(e) Contents of notice and hearing. The notice shall set forth the specific grounds for revocation of the permit and shall set a hearing on the revocation on a date falling not less than five (5) nor more than (10) days from the date of the notice.

(3) Hearing on the revocation. At the hearing on the revocation of the permit, the permittee shall be entitled to respond to the charges against him or her and to be represented by counsel at his or her expense. The city manager's decision shall be final. (1999 Code, § 9-210)

9-211. Violations and penalty. Any person found guilty of violating the terms of this chapter shall be subject to a penalty under the general penalty provision of this code. (1999 Code, § 9-211)

CHAPTER 3

TAXICABS[1]

SECTION

9-301. Taxicab franchise permit required. It shall be unlawful for any person, firm, or corporation to operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the City of Maryville without having first obtained a taxicab franchise permit from the municipality. (1999 Code, § 9-301)

9-302. Requirements as to application and hearing. (1) No person shall be eligible to apply for a taxicab franchise if he has been convicted of a felony within the last ten (10) years. All applications for a taxicab franchise shall be made upon a regular form provided for that purpose, which application shall include the name and address of the applicant, the name and address of the proposed place of business, the make, model, Vehicle Identification Number (VIN), and license number of all vehicles proposed to be used in the business, method and style of marking of vehicles, experience of the applicant in the transportation of passengers, certification of the mechanical reliability and

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[1]Charter reference
Regulation of taxicabs: art. II, § 1(28).
Municipal code reference
Privilege taxes: title 5.

cleanliness of the vehicles, certification of liability insurance, and such other pertinent information as may be required on said form, which application shall be sworn to by the applicant and verified by the affidavits of two (2) reputable citizens of the State of Tennessee who are acquainted with the applicant, and said application shall be filed with the recorder.

The recorder shall present the application to the city council with the recommendation of the city manager to either grant or refuse a franchise to the applicant. The city council after notice thereof is published one (1) time in a local newspaper at least five (5) days prior to the public hearing, shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise may be heard. In deciding whether or not to grant the franchise, the city council 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 taxicab franchise. Notice and a public hearing shall not be required for a renewal application for a taxicab franchise.

(2) No taxicab franchise permits shall be issued for a longer period than one (1) year. The city council may issue a permit for a shorter or probationary period if, in its discretion, it deems proper.

(3) Taxicab permits shall, upon timely and proper application, be renewed or other appropriate action taken on or before the fifteenth day of July in each and every year.

(4) The chief of police shall have authority to issue administrative regulations which are not in conflict with this chapter governing the use and operations of taxicabs. (1999 Code, § 9-302)

9-303. 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 approved by the recorder for all vehicles authorized in the amount of not less than one hundred thousand dollars ($100,000.00) for injury to, or death of, any one (1) person, and three hundred thousand dollars ($300,000.00) for injury to, or death of, any number of persons in one (1) occurrence, and property damage liability insurance in the amount of fifty thousand dollars ($50,000.00) in one (1) occurrence, and a copy of the policy to be on file with the recorder. The insurance policy required by this section shall contain a provision that it shall not be canceled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the municipality. (1999 Code, § 9-303)

9-304. Revocation or suspension of franchise. The city council, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application for a taxicab permit, for traffic violations, for violations of this chapter by the taxicab owner

or any driver, or upon proof of reckless or negligent conduct by a driver in the operation of a taxicab regulated under this chapter. (1999 Code, § 9-304)

9-305. Mechanical condition of vehicles. It shall be unlawful for any person to operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of Maryville 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 the state motor vehicle law. Each taxicab shall be equipped with a handle or latch, or other opening device, attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. All applications for a taxicab permit shall contain a certificate by the owner that the vehicles will be kept in a condition of repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1999 Code, § 9-305)

9-306. Cleanliness of vehicles. All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. (1999 Code, § 9-306)

9-307. Inspection of vehicles. (1) All taxicabs shall be inspected at least annually to ensure that they comply with the requirements of this chapter. The chief of police will designate the date, time, and by whom the inspections shall be made. The cost of inspections shall be borne by the permit holders.

(2) A police officer is authorized by this chapter to stop a taxicab operating on the streets of Maryville when the mechanical appearance of the vehicle so warrants and to inspect said vehicle for compliance with this chapter. If said officer finds the vehicle to be in noncompliance with this chapter, he shall cite the owner and declare the taxicab inoperable, not to operate on the streets of Maryville until evidence of inspection, as provided in § 9-307(1), is provided to the chief of police and all defects have been corrected. (1999 Code, § 9-307)

9-308. License and permit required for drivers. No person shall drive a taxicab unless he or she is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the city recorder. (Ord. #2019-14, June 2019)

9-309. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following qualifications:

(1) Makes written application to the recorder on forms provided for that purpose, which are to be reviewed and recommended by the chief of police.

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

(3) Certifies they are 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, or pled guilty to:

(a) A felony of any kind;

(b) A misdemeanor involving drunk driving, driving under the influence of an intoxicant or drug, or any other alcohol related offenses; or

(c) Frequent minor traffic offenses (more than four (4) within the ten (10) years immediately preceding the date of the application).

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

(8) Have a police background investigation including, but not limited to, a criminal record investigation including the taking and recording of fingerprints of each driver and owner.

All credentials required are to be in possession of the driver while operating a taxicab in the City of Maryville. Each permit that is issued shall be charged a fee of eighty-three dollars ($83.00) which shall include reimbursement for the cost of a police background investigation fee. (1999 Code, § 9-309)

9-310. Revocation or suspension of driver's permit. The city council 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 § 9-309, or upon recommendation by the chief of police. (1999 Code, § 9-310)

9-311. 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. (1999 Code, § 9-311)

9-312. 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. (1999 Code, § 9-312)

9-313. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1999 Code, § 9-313)

9-314. 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. (1999 Code, § 9-314)

9-315. 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. (1999 Code, § 9-315)

9-316. 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. (1999 Code, § 9-316)

9-317. Designation of taxicabs. Each taxicab shall bear on the outside of each front door an identifying company name, and the word "taxicab" if not part of the company name. The marking shall be of sufficient size to be clearly visible. (1999 Code, § 9-317)

CHAPTER 4

BEGGING

SECTION

9-401. Permit required. It shall be unlawful for any person to beg or solicit alms, money, or gifts of any kind upon the public streets, in public buildings, or in other public places within the City of Maryville without first having obtained a permit. (1999 Code, § 9-501)

9-402. Application for permit. Any person desiring to solicit alms or beg in the public streets and public places within the city shall apply to the city recorder for a permit. The application shall be made in writing, on a form furnished by the city, and it shall be signed and sworn to by the applicant. It shall contain the following information:

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

(2) Name, age, and address of persons dependent upon the applicant;

(3) Description of the physical disability, if any, which prevents the applicant from earning a livelihood by gainful employment;

(4) The amount of relief in money or otherwise which the applicant has received during the preceding twelve (12) month period, or is receiving at the time the application is made, and the name of the agency (governmental or private) from which such aid was or is obtained;

(5) The names of the governmental and private social welfare agencies to which the applicant has applied for aid or assistance; and

(6) The names and addresses of at least two (2) reputable citizens of the city to whom reference can be made for information as to the character and worthiness of the applicant. (1999 Code, § 9-502)

9-403. Issuance of permit. If the applicant is a worthy recipient of charity who cannot properly be taken care of by any public relief or welfare agency, a permit shall be issued to him by the city recorder free of charge.

The permit shall entitle the mendicant to solicit alms in the city for a period of six (6) months and shall expire six (6) months from the date of issuance. Each mendicant shall have his permit in his immediate possession at all times when he is engaged in begging or soliciting alms in the city and shall display same upon demand of any police officer of the city. No permit shall be renewed, but the mendicant shall be allowed, upon the expiration of his permit,

to apply for a new permit in the manner prescribed by this chapter. (1999 Code, § 9-503)

9-404. Purpose of permit. The provisions of this chapter shall not apply to authorized agents of regularly constituted charitable organizations soliciting funds or gifts for the benefit of such organizations, nor to the soliciting of funds on behalf of any association, society, club or similar organization from the members thereof or prospective members of such association, society, etc., it being the purpose of this chapter to license and regulate the practice of begging for personal gain. (1999 Code, § 9-504)

9-405. Police background investigation. Prior to receiving a permit from the City of Maryville under this chapter, an applicant must successfully pass a police background investigation and must further pay an eighty dollar ($80.00) fee to the city in order to reimburse the city of the cost of such investigation. (1999 Code, § 9-505)

CHAPTER 5

HELICOPTERS

SECTION

9-501. Definitions. (1) "Helicopter" means any rotocraft which depends principally for its support and motion in the air upon the lift generated by one (1) or more power driven rotors rotating on a substantially vertical axis.

(2) "Heliport" means an area of land, water, or structural surface which is designed, used or intended to be used for landing and takeoff of helicopters, and any appurtenant areas, including buildings and other facilities such as refueling, parking, maintenance, and repair facilities. The term "heliport" applies to all such facilities whether said facility is public or private.

(3) "Helistop" means a minimum facility without the logistical support provided at a heliport at which helicopters land and takeoff, including the touchdown area. Helistops may be at ground level or elevated on a structure. The term "helistop" applies to all such minimum facilities whether said facility is public or private. (1999 Code, § 9-601)

9-502. Minimum altitude. Except when necessary for takeoff or landing, it shall be unlawful for any person to operate a helicopter over the corporate limits of the City of Maryville, Tennessee under an altitude of one thousand feet (1,000') above the highest obstacle within a horizontal radius of two thousand feet (2,000') of the helicopter, except if the operation is conducted without hazard to persons or property on the surface. In addition, each person operating a helicopter shall comply with the routes or altitudes specifically prescribed for helicopters seeking to land or travel to points within the city that do not meet the requirements of this chapter by the chief of police, or his designee. (1999 Code, § 9-602)

9-503. Prohibition against landing in unauthorized places; exceptions. No person shall land a helicopter at any place within the city other than at landing facilities duly licensed or approved as required by appropriate statute or regulation by the state and federal aviation agencies, except: in a medical or other emergency; in the conduct of official business of any law enforcement agency; military unit of any branch of the armed forces of the United States of America; or state National Guard. (1999 Code, § 9-603)

9-504. Designation of heliports or helistops. All heliports or helistops shall comply with any rules and regulations promulgated by the bureau of aeronautics, department of transportation of the state with respect to minimum standards for heliports or helistops. If a heliport or helistop shall be located on a building or other structure, it shall further comply with the building code of the city. (1999 Code, § 9-604, modified)

9-505. Zoning ordinances not affected. No provisions of this chapter shall be construed to alter or amend any provisions of the city's zoning ordinance and no law prohibited by terms of said ordinance shall be deemed permitted by the provisions of this chapter. (1999 Code, § 9-605)

9-506. Violations and penalty. Any person violating any provisions of this chapter shall be deemed guilty of an offense and upon conviction shall pay a penalty of not more than fifty dollars ($50.00). Each occurrence shall constitute a separate offense. (1999 Code, § 9-606, modified)

CHAPTER 6

CABLE TELEVISION

SECTION

9-601. To be furnished under franchise. Cable television service shall be furnished to the City of Maryville and its inhabitants under franchise as the city council shall grant. The rights, powers, duties and obligations of the City of Maryville and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.[1] (1999 Code, § 9-701)

9-602. Minimum depth of underground cable. The minimum depth of burial of underground television cable within the public right-of-way shall be eighteen inches (18"). (1999 Code, § 9-901)

[1]For complete details relating to the cable television franchise agreement see Ord. #1276, and any amendments, in the office of the city recorder.

CHAPTER 7

SEXUALLY-ORIENTED BUSINESSES

SECTION

9-701. Title. This chapter shall be known and may be cited as "The Sexually-Oriented Business Ordinance." (1999 Code, § 9-801)

9-702. 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:

(1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore, adult novelty store or adult video store" means a commercial establishment which, as one (1) of its principal purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, computer software or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or

(b) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one (1) of the principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(3) "Adult cabaret" means a nightclub, bar, restaurant, or similar establishment which regularly features:

(a) Persons who appear in a state of nudity or semi-nude;

(b) Live performances which are characterized by "specified sexual activities" or by the exposure of any of the "specified anatomical areas," even if partially covered by opaque material or partially or completely covered by translucent material, including swim suits, lingerie, or latex covering; or

(c) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical area."

(4) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has a significant or substantial portion of such exhibition any actual or simulated performance of "specified sexual activities" or the viewing of "specified anatomical areas."

(5) "Adult motel" means a hotel, motel or similar commercial establishment which:

(a) Offers sleeping room accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours.

(6) "Adult motion picture theater" means a commercial establishment where, as one (1) of the principal purposes, and for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(7) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear

in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(8) "Codes department" means the department or division of the city which is authorized to enforce building codes and other provisions of this code of ordinances.

(9) "Employee" means a person who performs any service on the premises of a sexually-oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise, and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

(10) "Entertainer" means any person who provides entertainment within a sexually-oriented business as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(11) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(12) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services for the purposes of sexual stimulation or where one (1) or more of the employees exposes to public view of the patrons within said establishment, at any time, "specified anatomical areas."

(13) "Nude model studio" means a commercial establishment where a person appears semi-nude or in a state of nudity, or displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. "Nude model studio," as defined herein, shall not include a proprietary school licensed by the State of Tennessee or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or a structure:

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

(b) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

(c) Where no more than one (1) nude or semi-nude model is on the premises at any one (1) time.

(14) "Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than

a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(15) "Operator" means a person operating, conducting or maintaining a sexually-oriented business, or a person who is identified in any report filed with the city as the operator of a sexually-oriented business.

(16) "Sauna" means an establishment or place primarily in the business of providing for the purposes of sexual stimulation:

(a) A steam bath or dry heat sauna; or

(b) Massage services.

(17) "Semi-nude" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

(18) "Sexual conduct" means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of that person or another person.

(19) "Sexual encounter center" means a business or commercial enterprise that, as one (1) of its principal business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) For purpose of sexual stimulation, activities between male and female persons, and/or persons of the same sex, when one (1) or more of the persons is in a state of nudity or semi-nude.

(20) "Sexually-oriented business" includes, but is not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude model studio, sexual encounter center, massage parlor, or sauna, and further means any premises to which patrons or members of the public are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult entertainment, when such is held, conducted, operated or maintained for a profit, direct or indirect.

(21) "Sexual stimulation" means to excite or arouse the prurient interest, or to offer to solicit acts of "sexual conduct" as defined in this chapter.

(22) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals;

(ii) Pubic region;

(iii) Buttocks; and

(iv) Female breast below a point immediately above the top of the areola.

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

(23) "Specified criminal activity" means any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; rape; sexual assault; molestation; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of this state or other states or countries, for which:

(a) Less than five (5) years have elapsed since the date of conviction or plea of nolo contendere, or the date of release from confinement imposed, whichever is the later date, if the conviction or plea is for a misdemeanor offense;

(b) Less than ten (10) years have elapsed since the date of conviction or plea of nolo contendere, or the date of release from confinement imposed, whichever is the later date, if the conviction is of a felony offense; or

(c) Less than ten (10) years have elapsed since the date of conviction or plea of nolo contendere, or the date of release from confinement imposed, for the last conviction or plea, whichever is the later date, if the convictions or pleas are for two (2) or more misdemeanor offenses, or combination of misdemeanor offenses occurring within any twenty-four (24) month period; provided further, that the fact that a conviction is being appealed shall have no effect whatsoever on the provisions of this chapter.

(24) "Specified services" means massage services, private dances, private modeling, or acting as an "escort" as defined in this chapter.

(25) "Specified sexual activities" means:

(a) Human genitals in a state of sexual arousal;

(b) Acts of human masturbation, oral copulation, sexual intercourse or sodomy; or

(c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts. (1999 Code, § 9-802)

9-703. <u>Prevention of sexual activity</u>. (1) No person who owns, operates or manages a sexually-oriented business shall permit "specified sexual activities," as defined in this chapter, to occur on the premises.

(2) No commercial building, structure, premises, or portion thereof, shall be designed for, or used to, promote high-risk sexual conduct.

(3) No person who owns, operates, causes to be operated or manages a sexually-oriented business, other than an adult motel, which exhibits on the premises in any one (1) or more viewing rooms or booths of less than one hundred fifty (150) square feet of floor space, a film, video cassette, other reproduction or live entertainment which depicts "specified sexual activities" or "specified anatomical areas," shall cause or allow any deviation from the following requirements:

(a) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. No manager's station may exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more manager's stations, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one (1) of the manager's stations. Each such area shall remain unobstructed by doors, curtains, partitions, walls, merchandise, display racks or other materials. All viewing rooms and booths shall have at least one (1) side open so that the area inside is visible from a manager's station. The view required in this subsection must be by direct line of sight from the manager's station.

(b) No alteration in the configuration or location of a manager's station may be made without the prior approval of the codes department.

(c) At least one (1) employee shall be on duty and situated in each manager's station at all times that any patron is present inside the premises.

(d) No viewing room or booth may be occupied by more than one (1) person at any time.

(e) Each viewing room or booth shall be lighted in such a manner that persons within are visible from a manager's station. The illumination level of each viewing room or booth, when not in use, shall be a minimum of ten (10) foot-candles at all times, as measured from the floor. The illumination level of all other portions of the premises open to the public shall be a minimum of ten (10) foot-candles at all times.

(f) No patron shall be permitted access to any area which has been designated as an area in which patrons will not be allowed.

(g) Each viewing room or booth shall be totally separated from adjacent viewing rooms and booths and any non-public areas by walls. All such walls shall be solid and extended from the floor to a height of not less than six feet (6') and shall be of light colored, nonporous, non-absorbent, smooth textured and easily cleanable material. No such wall may be constructed of plywood or composition board. No opening or aperture of any kind shall be allowed to exist between viewing rooms or

booths. No person shall make or attempt to make an opening or aperture of any kind between viewing rooms or booths.

(h) All floor coverings in viewing rooms or booths shall be light colored, nonporous, non-absorbent, smooth textured, easily cleanable surfaces, with no rugs or carpeting.

(i) Their premises shall be maintained in a clean and sanitary manner at all times.

(j) No occupant of a viewing room or booth shall be allowed to damage or deface any portion therein or to engage in any type of sexual activity causing any bodily discharge or litter while inside. (1999 Code, § 9-803)

9-704. Involvement of minors. An operator of a sexually-oriented business is in violation of this chapter if:

(1) The operator is less than eighteen (18) years of age.

(2) Any officer, director, partner, stockholder or other individual having a direct or beneficial financial interest in the operator is less than eighteen (18) years of age, if the operator is a corporation, partnership or other form of business organization.

(3) Any employee of the sexually-oriented business is less than eighteen (18) years of age.

(4) Any entertainer at the sexually-oriented business is less than eighteen (18) years of age. (1999 Code, § 9-804)

9-705. Specified criminal activity by operators, employees, entertainers and others. (1) No person may own or operate a sexually-oriented business within the city if:

(a) He has a record of "specified criminal activity," as defined in this chapter, if the owner or operator is an individual.

(b) Any officer, director, partner or other individual having at least a ten percent (10%) direct or indirect beneficial financial interest in the operator and has a record of "specified criminal activity" as defined in this chapter, if the owner or operator is a corporation, partnership or other form of business organization.

(2) No operator of a sexually-oriented business may allow any employee who has a record of "specified criminal activity," as defined in this chapter, to work on the premises of the business.

(3) No operator of a sexually-oriented business may allow any entertainer who has a record of "specified criminal activity," as defined in this chapter, to perform on the premises of the business.

(4) No operator or employee of a sexually-oriented business may knowingly allow any "specified criminal activity" to occur on the premises of the business.

(5) No operator or employee of a sexually-oriented business may allow any patron or customer who has carried out any "specified criminal activity" on the premises of the business to reenter the premises.

(6) The police department shall investigate the criminal record of any person identified pursuant to § 9-709(4) as well as any employee of a sexually-oriented business or any entertainer performing in a sexually-oriented business. No person shall have an interest as identified in § 9-709(4) unless such person has satisfactorily completed such a criminal background investigation, nor shall any person be an employee or entertainer at a sexually-oriented business unless such person has submitted to, and successfully passed, a police background investigation. Each police background investigation shall be subject to a charge of eighty dollars ($80.00) which shall be paid by the owner/operator of the sexually-oriented business or by the employee or performer. The obligation is on the permit holder to advise the city of any new person for whom a background check is required under this section. (1999 Code, § 9-805, modified)

9-706. Prohibited hours of operation. No sexually-oriented business, except for an adult motel, shall be open between the hours of 11:00 P.M. and 8:00 A.M. No adult motel may allow any guest to check into a room between the hours of 11:00 P.M. and 8:00 A.M. (1999 Code, § 9-806)

9-707. Duties and responsibilities of operators, entertainers and employees. (1) The operator of each sexually-oriented business shall maintain a register of all employees, showing the name, all aliases, home address, age, birth date, sex, weight, color of hair and eyes, telephone number, social security numbers, driver's license or their state identification number and date of issuance, date of employment and termination, and duties of each employee. The above information for each employee shall be maintained on the premises during his or her employment and for a period of three (3) years following termination.

(2) The operator shall make such information available for inspection immediately upon request by the city manager, or his authorized representative, or by the police department or codes department. Alternatively, if the city manager, or his authorized representative, the police department or the codes department request that copies of any such information be delivered to them, the operator shall have such copies delivered within three (3) days of the request.

(3) An operator shall be responsible for the conduct of all employees on the premises of the sexually-oriented business and any act or omission of any employee constituting a violation of the provisions of this part shall be deemed the act of omission of the operator.

(4) There shall be posted and conspicuously displayed in the common areas of each sexually-oriented business a list of any and all entertainment and services provided on the premises. Viewing adult-oriented motion pictures shall

be considered as entertainment. The operator shall make the list available immediately upon demand of the city manager, or his authorized representative, or by the police department or codes department.

(5) No operator or employee of a sexually-oriented business shall allow any person under the age of eighteen (18) years on the premises of a sexually-oriented business.

(6) A sign shall be conspicuously displayed in the common area of the premises of each sexually-oriented business, and shall read as follows:

"This sexually-oriented business is regulated by the City of Maryville, Tennessee. Employees, entertainers and customers are not permitted to engage in any type of sexual contact."

(7) Operators of sexually-oriented businesses that provide "specified services," as defined in this chapter, for customers or patrons shall comply with the following requirements:

(a) For each "specified service," such customers or patrons shall be provided with written receipts. Operators shall keep copies of such receipts for at least three (3) years, showing:

(i) "Specified service" provided.

(ii) Cost of "specified service."

(iii) Date and time of service provided.

(iv) Name of persons providing the "specified service."

(v) Method of payment for service.

(b) Copies of all published advertisements for the business shall be kept for at least three (3) years.

(c) Copies of the receipts and advertisements required under this section shall be made available immediately upon request by the city manager, or his authorized representative, or by the police department or codes department.

(8) It shall be the duty of the operator and all employees on the premises of a sexually-oriented business to ensure that the line of sight between the manager's station(s) and each viewing room or booth remains unobstructed by doors, curtains, partitions, walls, merchandise, display racks or other materials.

(9) It shall be the duty of the operator and all employees on the premises of a sexually-oriented business to ensure that the illumination required by this chapter is maintained at all times during business hours.

(10) It shall be the duty of the operator and all employees on the premises of a sexually-oriented business to ensure that no openings of any kind exist between viewing rooms or booths.

(11) The operator, or his/her agent, shall, during each business day, regularly inspect the walls of all viewing rooms and booths to determine if any openings or holes exist. If such openings exist, it is the duty of the operator to immediately repair the damage. No patron shall be permitted access to a viewing room or booth where such an opening exists. It shall be the duty of the

operator and all employees on the premises to ensure that such rooms or booths are unoccupied by patrons until the opening is repaired and covered. (1999 Code, § 9-807)

9-708. Prohibited activities. (1) No operator, entertainer or employee of a sexually-oriented business shall perform, or offer to perform, any specified sexual activities on the premises of the business, or allow or encourage any person on the premises to perform or participate in any specified sexual activities.

(2) No entertainer, employee, or customer shall be permitted to have any physical contact with any other person on the premises during any performance, and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest entertainer, employee, and/or customer.

(3) No business shall advertise that it offers or provides any entertainment or service which would fall under the definitions of "sexual conduct," "sexual stimulation" or "specified sexual activities" as defined in this chapter.

(4) No operator or employee shall serve, or allow to be served or consumed, any intoxicating liquor or malt beverage on the premises of a sexually-oriented business.

(5) No operator or employee shall knowingly allow possession, use or sale of controlled substances on the premises of a sexually-oriented business.

(6) The possession of weapons by any patron or customer on the premises of a sexually-oriented business shall be prohibited. Notice of such prohibition shall be posted on the premises. No operator or employee shall knowingly allow a patron or customer on the premises of a sexually-oriented business to have a weapon in his possession.

(7) No hotel, motel or similar commercial establishment may knowingly allow a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours. (1999 Code, § 9-808)

9-709. Reports. Any person operating, or desiring to operate, a sexually-oriented business shall file a report with the codes department at least thirty (30) days prior to the opening of the business and no later than November 1 of each year thereafter. The report shall be filed in triplicate with, and dated by, the codes department upon receipt. One (1) copy of the dated report shall be returned to the operator and one (1) copy shall be promptly provided to the police department. The report shall be upon a form provided by the codes department and shall include the following information, which shall be sworn by the operator to be true and correct under oath:

(1) The name under which the sexually-oriented business is or will be operated.

(2) The location and all telephone numbers for the sexually-oriented business.

(3) The type of sexually-oriented business which is being, or will be, operated, using the terms included in the definition of "sexually-oriented business" provided in this chapter, if applicable, and a complete description of all types of entertainment and services provided, or to be provided, by the business.

(4) If the operator is an individual, or for any individual who owns or will own at least a ten percent (10%) direct or beneficial interest in the business:

(a) Legal name and any other names or aliases used by the individual.

(b) Mailing address and residential address and telephone number.

(c) Business address and telephone number.

(d) A recent photograph of the individual.

(e) Age, date and place of birth.

(f) Height, weight, and hair and eye color.

(g) Date, issuing state and number of the individual's driver's license or other state identification card information.

(h) Social Security number.

(i) Proof that the individual is at least eighteen (18) years of age.

(j) The business, occupation or employment of the individual for five (5) years immediately preceding the date of the report.

(5) If the operator is a partnership:

(a) The partnership's complete name.

(b) The names of all partners and the information required above for all individuals who own, or will own, at least ten percent (10%) direct beneficial interest in the business.

(c) Whether the partnership is general or limited.

(d) A copy of any printed partnership agreement.

(6) If the operator is a corporation:

(a) The corporation's complete name, address and telephone number.

(b) The date and state of incorporation.

(c) The corporation's federal tax identification number.

(d) Evidence that the corporation is in good standing under the laws of the state of incorporation.

(e) The names and capacity of all officers, directors and principal stockholders and the information required above for all individuals who own, or will own, at least a ten percent (10%) direct or beneficial interest in the business.

(f) The name and address of the registered corporate agent for service of process.

(7) The sexually-oriented business or similar business history of the operator and of each individual listed under § 9-709(4) above, including:

(a) The name and location of each sexually-oriented business or similar business currently or previously owned or operated by such operator or individual.

(b) If the operator or individual is or was a partner, officer, or director or holds or held at least a ten percent (10%) direct or beneficial interest in a partnership, corporation or other business entity which operates or operated, or is or was majority owner of, any sexually-oriented business or similar business, the name and location of each such business and the owning or operating business entity.

(c) Whether such operator or individual has had any license or permit issued to a sexually-oriented business or similar business denied, suspended or revoked.

(d) The name and location of each sexually-oriented business or similar business for which the license or permit was denied, suspended or revoked, and the dates and reasons for each such suspension or revocation.

(8) Whether the operator, or any of the operator's, officers or directors or any individual listed under § 9-709(4) above has a record of any "specified criminal activity" as defined in this chapter, and, if so, the "specified criminal activity" or activities involved and the date, place and jurisdiction of each.

(9) If the premises are leased or being purchased under contract, a copy of such lease or contract.

(10) A sketch or diagram showing the configuration of the premises, including the total amount of floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6"). The codes department may waive this requirement if the report adopts a sketch or diagram that was previously submitted and the operator certifies that the configuration of the premises has not been altered since it was prepared. This requirement does not excuse the operator from compliance with all other applicable requirements for approval of building plans.

(11) For the initial report, a current certificate and straight-line drawing prepared within thirty (30) days prior to the filing of the report by a registered land surveyor depicting the property lines and the structures containing any existing sexually-oriented businesses within one thousand feet (1,000') of the property of the business filing the report; the boundary lines of any residential zoning district within one thousand feet (1,000') of said property; and the property lines of any parcel which includes an established religious facility, child care or educational facility, public park or recreation area, family entertainment business, liquor store or residence within one thousand feet

(1,000') of said property. For purposes of this section, a use shall be considered existing or established if it is in existence at the time a report is submitted.

(12) A signed statement by the operator that the operator is familiar with the provisions of this chapter and is and will continue to be in compliance therewith, provided that if the operator is not an individual, such statement shall be signed by each individual who owns or will own at least a ten percent (10%) direct or beneficial interest in the operator.

(13) Any other reasonable available information determined by the city manager, codes department or police department to be necessary in determining whether the operator and the sexually-oriented business meet the requirements of this chapter. (1999 Code, § 9-809)

9-710. Inspections. In order to effectuate the provisions of this chapter, the police department, codes department, city manager and/or his authorized representatives are empowered to:

(1) Conduct investigations of the premises of any sexually-oriented business or any business believed by any of them to be a sexually-oriented business at any time such business is occupied or open for business.

(2) Inspect all licenses and records of any sexually-oriented business and its operators and employees for compliance with this chapter at any time such business is occupied or open for business.

(3) Conduct investigation of persons engaged, or believed to be engaged, in the operation of any sexually-oriented business. (1999 Code, § 9-810)

9-711. Applicability of state statutes. The provisions of this chapter are not intended to supersede any obligations or requirements, including licensing requirements, imposed by state statute and shall be in addition thereto. (1999 Code, § 9-811)

9-712. Permit requirements and fees. Any person wishing to operate a sexually-oriented business as defined in this chapter must first obtain a permit from the City of Maryville. Such permit shall be provided only upon satisfactory compliance with all of the provisions of this chapter. A permit fee of two hundred fifty dollars ($250.00) shall be provided along with an application for a permit. (1999 Code, § 9-813)

9-713. Violations and penalty. (1) Each of the following acts and omissions shall be considered a civil offense against the city:

(a) Failure to file any report required under this chapter at the time required, or submittal of false or misleading information or omission of any material facts in any report required under this chapter.

(b) Any operator, entertainer, or any employee of the operator, violates any provision of this chapter.

(c) Any operator, employee or entertainer denies access to the police department, codes department, fire department, city manager or his authorized representatives to any portion of the premises of the sexually-oriented business at any time it is open for business.

(d) Any operator fails to maintain the premises of a sexually-oriented business in a clean, sanitary and safe condition.

(2) Upon a second or subsequent violation by an operator, entertainer or employee of a sexually-oriented business, of any part of this chapter, or any state statute regarding nudity, sexually-oriented businesses or adult entertainment, such business shall be deemed a nuisance and shall also be subject to an order of closure, and/or to cease and desist, by chancery court action seeking injunctive relief to enforce the provisions of this chapter, provided that such second or subsequent violation occurs after a judgment or conviction, or plea of nolo contendere has been obtained for the previous such violation. (1999 Code, § 9-812)

CHAPTER 8

CARNIVALS AND FAIRS

SECTION

9-801. Definitions. As used in this chapter, the following terms shall be defined as stated herein:

(1) "Amusement device." Any equipment or piece of equipment, appliance or combination thereof designed or intended to entertain or amuse for a fee.

(2) "Amusement ride." Any amusement device, or combination of devices, which carries passengers along, around or over a fixed or restricted course for the purpose of amusement and for a fee.

(3) "Carnival." An enterprise offering amusement or entertainment to the public in, upon, or by means of amusement devices or rides or concession booths.

(4) "Concession booth." A building, structure, or enclosure located at a fair or carnival from which amusements or games are offered to the public for a fee.

(5) "Fair." An enterprise principally devoted to the exhibition of products of agriculture or industry in connection with the operation of amusement rides or devices or concession booths.

(6) "Operator." A person, or the agent of a person, who owns or controls the operation of an amusement ride, device or concession booth.

(7) "Restraining device." A safety belt, harness, chain, bar or other device, which affords actual physical support, retention or restraint of a passenger of an amusement ride or device. (1999 Code, § 9-1001)

9-802. Carnival or fair permit and certificate of use. No person shall conduct or operate, or allow to be conducted or operated, in any place owned, leased, managed or controlled by him, any carnival or fair in the city without first obtaining and maintaining:

(1) A valid carnival or fair permit as provided for in this chapter;

(2) A valid certificate of use regarding the carnival or fair which shall issue from the building inspector after all the conditions, requirements and inspections provided for in this chapter as prerequisites to the issuance of a certificate of use have been met prior to the opening of the carnival or fair to the public; and

(3) All other approvals, permits and licenses required by this chapter and other applicable laws and regulations. (1999 Code, § 9-1002)

9-803. Use of city property. No person shall conduct, or allow to be conducted, on city streets, right-of-way, parks or other city property a carnival or fair without first obtaining the written permission of the city manager, or his authorized representative. (1999 Code, § 9-1003)

9-804. Application for carnival or fair permit. Applications for a carnival or fair permit shall be made at least thirty (30) calendar days and no more than ninety (90) calendar days prior to the proposed opening date of the carnival or fair. Applications for a carnival or fair permit shall be made to the city recorder by the person or entity, which will conduct or perform the carnival or fair. Any limitations or representations set forth in the application including, but not limited to, proposed hours of use, shall be binding on the applicant and shall constitute a condition of the carnival or fair permit's issuance, the breach of which may result in the nullification of the carnival or fair permit. Each carnival or fair permit shall include:

(1) The name, complete permanent home address, and telephone number of the person requesting permit.

(2) The name and address of the organization or group sponsoring the event. A copy of the organization's articles of incorporation, partnership agreement, charter, or other organizing documents, if applicable, shall be attached to the application.

(3) The name, address and telephone number of the person who will act as contact person for the event and be responsible for the conduct thereof.

(4) The purpose of the proposed carnival or fair.

(5) Location of event, including written permission of any private property owner, or other person in control of the property owned at which the applicant proposes to hold the carnival or fair.

(6) The date or dates the carnival or fair is proposed to be conducted and the hours it will commence and terminate each day.

(7) The specific assembly and disbursal locations, and the specific route plan to be used, if applicable, if any part of the carnival or fair will be assembled in one (1) place and then moved to another.

(8) A list of every amusement device or ride with descriptive name and identification number and a certificate from the owner and/or manager in charge of the carnival or fair that each operator of each such amusement device or ride has appropriate and sufficient training and knowledge of how to properly and safely operate each amusement device or ride he or she will operate at the fair or carnival.

(9) A positive certification from an independent testing agency certifying that each amusement ride or device has passed a load test in accordance with manufacturer's specifications within one (1) year of the date of the carnival or fair. Modifications to the original design (such as restraining devices not found on the original design) must be reflected in the load test or reviewed and approved by a licensed engineer. Such engineer's approval report shall be in writing and in sufficient detail as to indicate the extent of the modification(s), shall contain a written description and/or illustration of the modification approved and shall set forth the engineer's seal and current contact information.

(10) A list of names of all persons who will work at, or be employed at, the carnival or fair when it is proposed to be in operation in the city including each such person's driver's license number and state of issuance or Social Security number.

(11) A State of Tennessee Business License, if appropriate.

(12) Such other information as the city may deem reasonably necessary.

(13) A certification that the statements in the application are true, accurate and complete.

(14) A copy of a valid government issued photo identification card shall be provided for each person who is listed as working or being employed at a carnival or fair. (1999 Code, § 9-1004)

9-805. <u>Application fee</u>. A non-refundable application fee of five hundred dollars ($500.00) shall be submitted with the application for a carnival or fair permit. (1999 Code, § 9-1005)

9-806. Permit fee. There will be a fee of fifty dollars ($50.00) for the issuance of the carnival or fair permit payable prior to the issuance of the permit. (1999 Code, § 9-1006)

9-807. Transient vendor business license required. Each applicant who is issued a carnival or fair permit under this chapter shall further be required to obtain, prior to the opening of the carnival or fair, a transient vendor business license from both the City of Maryville and from the Blount County Court Clerk. (1999 Code, § 9-1007)

9-808. Posting of required permits, etc. The following valid and current documents shall be posted in a prominent location easily visible to the public at each carnival or fair operated in the city during all times when the fair or carnival is open for business:

(1) Carnival or fair permit.

(2) Transient vendor business license.

(3) Blount County Transient Vendor Business License.

(4) Certificate of use by appropriate city official. (Ord. #2020-1, Jan. 2020)

9-809. Review and consideration of applications and appeal process. The city recorder or designated representative shall initially review the application for a carnival or fair permit to ensure that all required information has been included. The city recorder, with the advice of appropriate affected city operating departments, will then consider the application based on the following criteria:

(1) Appropriateness of the location of the proposed event to the surrounding community.

(2) Date and time of proposed event.

(3) The length of the proposed event.

(4) The impact on residential and commercial neighbors.

(5) Other events previously scheduled in the city on the same dates.

(6) The amount and availability of city personnel necessary to regulate and monitor the proposed event.

(7) The interference with peak transportation periods, movement of emergency vehicles, or schedules of various construction projects.

(8) Concerns about problems with parking, sanitation and dispersal routes at the proposed event at the time and location contemplated by the application.

(9) Adequacy of the application and the information provided therein.

(10) Any other relevant information pertaining to the health, safety and general welfare of the citizens of and visitors to the city.

(11) Past experience with the applicant or those associated with the applicant.

Upon completion of this analysis, and within a reasonable time, the city recorder will determine whether or not the carnival or fair permit shall be issued to the applicant and shall advise the applicant of the decision. A permit may be used with or without additional conditions imposed by the city recorder. If the application for a carnival or fair permit is denied, the city recorder will provide the applicant an explanation in writing as to the reasons for the denial. The applicant has the right to appeal in writing the conditions placed on the issuance of a permit or the denial of a permit to the city manager's office within ten (10) business days of the issuance of the conditional permit or of the date of the denial letter, as applicable. (1999 Code, § 9-1009)

9-810. Bond required. Prior to the issuance of a certificate of use, a cash bond shall be provided to the City of Maryville in the amount of one thousand dollars ($1,000.00) for each carnival or fair on the condition that the operators and owners of the carnival or fair shall comply fully with the provisions of this chapter and the statutes of the State of Tennessee during the setting up, operation of, and closing down of the applicable carnival or fair. If all conditions are met to the satisfaction of the city, the bond will be refunded within thirty (30) days of the expiration of the carnival or fair permit. If the city determines that all conditions have not been met, it may retain all or part of the bond as appropriate to compensate it for the costs incurred due to the lack of compliance. If costs incurred exceed bond amount, the carnival or fair will be billed the additional amount. (1999 Code, § 9-1010)

9-811. Inspections. The following city employees must perform, and a carnival or fair must pass, the following inspections before a certificate of use may issue. Animals in any way connected to the carnival or fair must be properly restrained to allow inspectors to perform their work.

(1) Electrical inspector. (a) Inspection of extension cords for wear and splices. Cords are required to have locking-type receptacles and plugs.

(b) Emergency cutoffs on carnival rides.

(2) Building inspector. (a) Inspection of blocking and scotching of wheels and leveling arms.

(b) Check for guards on belts and other moveable devices.

(c) Walk-through inspection for obvious safety violations (no mechanical inspections).

(d) Any other matter which comes to the attention of the building inspector which causes him concern for the health, safety, and welfare of any person regarding the carnival or fair operation.

(3) Fire inspector. (a) Inspection for fire extinguishers in a number to be determined by the Maryville Fire Department.

(b) Inspection for smoke detectors in sleeping quarters, in generator trailers, and on all carnival rides.

(c) Inspection of location and accessibility of items for fire and life safety.

(4) Water quality control inspector (as is set forth below if the sanitary sewer of the city is used by, or in connection with, the carnival or fair). (1999 Code, § 9-1011)

9-812. Daily inspection reports required. Daily inspection reports in a form provided by the building inspector shall be submitted each day a carnival or fair is opened to the public. Such daily inspection reports shall state that the owner or manager in charge of the carnival or fair has inspected each amusement device or ride for safety concerns in advance of opening the carnival or fair to the public that day and that each such ride passed such inspection. A daily inspection report shall be provided to the building inspector and/or his agents prior to the operation of the carnival or fair each day for that day. (1999 Code, § 9-1012)

9-813. Sanitation requirements. Temporary restroom facilities must be provided at a carnival or fair in a number to be determined by city code enforcement with a minimum of four (4) separate facilities in addition to the existing city sanitary system. No dumping of holding tanks into the city storm sewer system is allowed. Any discharge of gray-water in connection with a carnival or fair, including dumping, must flow directly to the city sanitary sewer system and meet the following requirements:

(1) Connections as per the *International Building Code* and the Rules, Regulations, Rates and Policies of the City of Maryville Water Quality Control Department, the Maryville Sewer Use Ordinance and any other applicable regulations.

(2) All discharge must meet the standards of the pretreatment ordinance and the sewer use ordinance, including, but not limited to, the prohibition on the discharge of chemicals and cooking grease into the sanitary sewer system.

(3) Connections must be such as to not allow rainwater inflow.

(4) If authorized, connections may be made at a sanitary sewer manhole using a special manhole cover drilled to accept a four inch (4") PVC elbow and riser or standard dump station connection subject to inspection. A manhole may be provided by WQC department upon request.

(5) Connections may be made at other approved locations subject to review and inspection.

(6) The appropriate city personnel must inspect all connections prior to use. (1999 Code, § 9-1013)

9-814. Water service for carnival or fair. If water is to be used at the carnival or fair, a responsible party for the carnival or fair must sign up for temporary water service with the City of Maryville Water Department and must

pay for consumption billed at current City of Maryville Water Department rates before leaving the city and must operate pursuant to the following regulations:

(1) Connections must be in compliance with the *International Building Code* and the Rules, Regulations, Rates and Policies of the City of Maryville Water Quality Control Department, and any other applicable regulations;

(2) Connection must be through a meter;

(3) Connection must include a backflow prevention device at the connection point; and

(4) The appropriate city personnel must inspect all connections. (1999 Code, § 9-1014)

9-815. Stormwater inlet protection required. A responsible party for a permitted carnival or fair is required to protect any stormwater inlets from pollution that may impair water quality or system function where such stormwater inlets are impacted or potentially impacted by carnival or fair operations. No equipment known to leak or to deposit oil, grease, or any other pollutant may be used without making adequate provision for total, weatherproof collection and approved disposal of the pollutant. (1999 Code, § 9-1015)

9-816. Utility deposit required; return of deposit. Use of the water or sewer system of the city for, or in connection with, a carnival or fair, a temporary utility deposit in the amount of one thousand dollars ($1,000.00) will be required upon:

(1) Return of all meters and equipment to the city;

(2) Passing a post-use inspection of the sanitary sewer system involved with the carnival's or fair's use; and

(3) Full payment of any outstanding water and sewer use billing, the deposit will be refunded within thirty (30) days of the last of these conditions to occur. (1999 Code, § 9-1016)

9-817. Proof of contact of health department where food is served. Prior to receiving a certificate of use, a responsible person for the carnival or fair must show in writing that the Blount County Health Department has received notice if any food is contemplated to be prepared and served at the carnival or fair so that appropriate inspections can be made. (1999 Code, § 9-1017)

9-818. Police presence required at carnival's or fair's expense. At least one (1) officer of the Maryville Police Department shall be on duty at the carnival or fair during the operating hours of the carnival or fair. The cost of such officer shall be borne in advance by the carnival or fair, and proof of compliance with this chapter shall be provided prior to the issuance of a certificate of use. (1999 Code, § 9-1018)

9-819. Cease operation. (1) The city manager, or his designated representative, is authorized to revoke a carnival or fair permit and order such carnival or fair to immediately cease its operation due to any violation of this chapter, or if the city manager deems the continuing operation of the carnival or fair to be a hazard to the health, safety or general welfare of the citizens of, or visitors to, Maryville. The city manager or the building inspector further has the authority to cease operation of a particular amusement device or ride if it is found to be particularly unsafe or hazardous without shutting down the entire carnival or fair.

(2) The city manager or the chief of police further has the authority to cease the operation of the carnival or fair and revoke the carnival or fair permit in the event that a person is found employed at, or working at, the carnival or fair where such person has not been listed under the requirements of § 9-804(10) and where proper identification has not been provided for each such individual under § 9-804(14). (1999 Code, § 9-1019)

9-820. Duration of permit. A carnival or fair permit issued under the authority of this chapter shall expire no more than fourteen (14) days from the commencement of the carnival or fair, and shall be non-transferable and non-assignable. (1999 Code, § 9-1020)

9-821. Public liability insurance. Before a certificate of use is granted to allow the opening of the carnival or fair, the carnival or fair operators shall furnish evidence that they have in force at the time such a carnival or fair is to operate in the city the following coverages, which would apply to the carnival or fair and its operations:

(1) Workers' compensation insurance sufficient to comply with the State of Tennessee statutes;

(2) Comprehensive general liability insurance, by an insurance company licensed to do business in this state, providing coverage of two million dollars ($2,000,000.00) combined single limit per occurrence. Such coverage shall include independent contractors, products liability and personal injury, and the city shall be an additional named insured;

(3) Comprehensive automobile liability providing for a single limit for five hundred thousand dollars ($500,000.00) per occurrence and aggregate for owned, not owned, and hired motor vehicles. The city shall be an additional named insured; and

(4) Certificates of insurance in a form and with insurance companies acceptable to the city shall be filed with the city recorder prior to issuance of the certificate of use. (1999 Code, § 9-1021)

9-822. Other permits. The carnival or fair permit shall be in addition to any permits, additional permits or licenses required by state and federal law or local ordinance. (1999 Code, § 9-1022)

9-823. Exemptions. Special events conducted solely by, or in conjunction with, the City of Maryville, the City of Maryville Schools and the Blount County, Maryville and Alcoa Parks and Recreation Commission shall be exempt from requirements of this chapter. (1999 Code, § 9-1023)

9-824. Violations and penalty. In addition to the ceasing of operations of a carnival or fair as set forth above, the violation of this chapter is punishable under the general penalty clause of the City of Maryville. (1999 Code, § 9-1024)

CHAPTER 9

MOBILE FOOD VENDORS AND FOOD TRUCKS

SECTION

9-901. Definitions. (1) "Food trailer" means a detached trailer that is equipped with facilities for preparation, cooking and selling various types of food and/or drink products.

(2) "Location." Mobile food vendors will be permitted on private property according to the terms and conditions herein. On commercially zoned property, MFVs may only operate on private commercial property on which there is another existing, legal and active business operation. No MFV shall be permitted to operate on a vacant lot or on private commercial property on which there is no other existing, legal and active business unless the property is in use as a mobile food park. No MFV on private commercially zoned property shall do business or operate within fifty feet (50') of any property line of any lot used for residential purposes. On residentially zoned property, MFVs may only operate according to the requirements of § 9-909 below. An MFV must have written permission from the property owner for operating on each private lot. The MFV must provide a copy of such written permission on demand to city officials.

(3) "Ice cream truck" means a motor vehicle containing a commercial freezer from which a vendor sells only frozen, pre-packaged food products such as ice cream, frozen yogurt, frozen custard, flavored frozen water and similar frozen items.

(4) "Mobile food park" is defined in § 14-211(29) of this code, which is incorporated herein by reference. A mobile food park is a use of land to accommodate two (2) or more Mobile Food Vendors (MFVs) offering food and/or beverage for sale to the public as a primary use of the property, which may include seating areas for customers. A special event hosted by the primary user of the property does not constitute a mobile food park.

(5) "Mobile food vendor" means any person selling food and/or drink from a mobile vehicle, including a food truck, food trailer and ice cream truck.

(6) "Mobile food vendor vehicle" means a vehicle that returns daily to its base of operations and is used either in the preparation or sale of food or drink products, or both. (1999 Code, § 9-1101, as amended by Ord. #2021-22, May 2021)

9-902. Requirements. (1) Licenses and permits. It shall be unlawful for any person to engage in business as a mobile food vendor in the City of Maryville without first obtaining a business license and a mobile food vendor's license with a decal evidencing such license. Any permits, licenses, and certifications required by the Blount County Department of Health and/or State of Tennessee for operation of the business are also required. City of Maryville transient vendor licenses will not be required for those business owners residing in the State of Tennessee and/or businesses based in Tennessee. State transient vendor licenses will be required for owners of businesses residing outside of Tennessee and/or businesses based outside of Tennessee as required by the State of Tennessee. Upon being granted a mobile food vendor license, a mobile food vendor must comply with the rules and regulations herein.

(2) Insurance. At the time of the application for a mobile food vendor license, the mobile food vendor must provide proof of valid automobile liability insurance in an amount required by law for operation of the applicable mobile food vendor vehicle(s). Failure to maintain this insurance when acting as a mobile food vendor will result in immediate revocation of the mobile food vendor license.

(3) Litter receptacles. Each licensed mobile food vendor must maintain for customer use a litter receptacle of sufficient size to accept the litter being generated by the sales from the vendor's mobile food vehicle at the point of sales. The receptacle must be maintained in such a manner as to preclude an overflow of refuse. Each mobile food vendor shall pick up litter which is associated with the vendor's sale in the vicinity of the vendor's mobile food vehicle prior to departing a sales location. A pattern of leaving excessive litter caused by product packaging shall be basis for suspension or revocation of the mobile food vendor license.

(4) What can be sold. Mobile food vendors shall be limited to selling edibles and hot and cold beverages containing no alcohol. The sale of non-food or drink items from the mobile food vendor vehicle shall be limited to hats, t-shirts and sweat shirts displaying the mobile food vendor logo and/or branding.

(5) No seating and tables. There shall be no benches, tables, chairs or other furniture which may be used for eating or sitting provided by, or associated with, a mobile food vendor vehicle.

(6) Fire extinguishers and fire suppression systems. All food trucks and food trailers must be equipped with a fire extinguisher that is certified annually by a licensed company. Additionally, food trucks and food trailers that produce grease laden vapors (i.e., units with deep fat fryers or flat-top griddles)

must have a fire suppression system certified bi-annually by a licensed company.

(7) Placement. Mobile food vendor vehicles shall not obstruct or impede pedestrian or vehicular traffic, access to driveways, and sight distance for drivers.

(8) Pedestrian only. Mobile food vendor vehicles shall serve pedestrians only; drive-through or drive-in services are hereby prohibited.

(9) Health regulations. All mobile food vendors and their mobile food vendor vehicles must be in compliance with all applicable health regulations for Blount County and the State of Tennessee relating to food safety and preparation.

(10) Noises. Other than ice cream trucks being able to play a song associated with its business at a reasonable level of sound, no mobile food vendors shall sound any device which produces an offensive or loud noise to attract customers, and mobile food vendors shall not use a public address system on the vehicle to broadcast and advertise products.

(11) No parking in fire lanes. No mobile food vendors shall park in fire lanes.

(12) Signs. Signs which are permanently affixed to the mobile food vendor vehicle shall extend no more than six inches (6") from the vehicle. Except as stated herein, all signs shall be attached or painted on the mobile food vendor vehicle. Electronic signs are prohibited, as are signs that flash, reflect motion pictures, emit smoke or vapor, or produce any rotation, motion or movement. Each food truck or food trailer is permitted one (1) sandwich board-type sign located within ten feet (10') of the applicable food truck or food trailer for advertisement purposes while the food truck or food trailer is open for business. Such sandwich board sign shall be no more than forty-eight inches (48") high and contain no more than seven (7) square feet.

(13) Electricity. Any mobile food vendor vehicle shall not be attached to or use any temporary electrical pole and shall be ineligible for any permanent electrical service from the City of Maryville Electric Department. (1999 Code, § 9-1102)

9-903. Sales on streets and public property. (1) Ice cream trucks. The hours of operation for ice cream trucks are between 9:00 A.M. and sunset as stated for that day for the Maryville area by the National Weather Service. Ice cream trucks may vend on public streets so long as they remain mobile and only make stops of ten (10) minutes or less at one (1) location.

(2) Food trucks and food trailers. Except as set forth herein, food trucks and food trailers are prohibited from selling food on any public street, sidewalk, alley, trail or right-of-way or any city owned or controlled property, including, but not limited to, parks, unless approved by the city as part of a city permitted special event. The above prohibition will not apply to the parking lot and related areas at the Blount County Justice Center, nor to the parking lot

and related areas surrounding the Blount County Courthouse if permission is obtained by the county mayor for placement of food trucks or food trailers on such property. All mobile food vendors must comply with all rules, regulations and requirements related to any city permitted special event, including, but not limited to, provision as to where mobile food vendors will be located, how long the mobile food vendors can be present at the location, and how many and which food trucks can participate in the city permitted special event. (1999 Code, § 9-1103)

9-904. Mobile food vendors on private property. All mobile food vendors shall be subject to the following regulations on private property:

(1) Existing restaurants. Other than an ice cream truck, no mobile food vendor shall operate within fifty feet (50') of a door intended for regular public use of a lawfully established eating establishment that is open for business (other than another mobile food vendor vehicle) unless the mobile food vendor provides documentation which is signed by the restaurant owner or operator that the restaurant owner or operator has no objection to a closer proximity.

(2) Location. Mobile food vendors will be permitted on private property according to the terms and conditions herein. On commercially zoned property, MFVs may only operate on private commercial property on which there is another existing, legal and active business operation. No MFV shall be permitted to operate on a vacant lot or on private commercial property on which there is no other existing, legal and active business unless the property is in use as a mobile food park. No MFV on private, commercially zoned property shall do business or operate within fifty feet (50') of any property line of any lot used for residential purposes. On residentially zoned property, MFVs may only operate according to the requirements of § 9-909 below. An MFV must have written permission from the property owner for operating on each private lot. The MFV must provide a copy of such written permission on demand to city officials.

(3) Hours of operation. No mobile food vendor shall operate outside the hours of 8:00 A.M. to 10:00 P.M. At the end of each business day's operation, the mobile food vendor shall remove from the property the mobile food vendor vehicle and all materials associated with the business, unless participating in a city permitted special event that allows the overnight parking of mobile food vendor vehicles during the special event.

(4) Mobile food parks. The operation and location of mobile food parks shall be determined by the procedures as outlined in § 14-211(29) of this code. (1999 Code, § 9-1104, as amended by Ord. #2021-22, May 2021)

9-905. Permit. Applicants for a permit under this section shall file with the city recorder a sworn application in writing on a form to be furnished by the city recorder. Submission of false or misleading information will result in

revocation of the permit and a ban on receiving future permits. The application shall provide the following:

(1) The name and contact information of the applicant.

(2) The applicant's permanent street address, mailing address and email address.

(3) The applicant's telephone numbers including a cell phone number, if available.

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

(5) A copy of the vehicle registration for any mobile food vendor vehicle and proof of automobile insurance for the mobile food vendor vehicle.

(6) A copy of the business license, proof of State of Tennessee sales tax registration, and any health department license or certification required by Blount County Department of Health or the State of Tennessee.

(7) State of Tennessee and City of Maryville transient vendor licenses will be required for businesses based outside of the State of Tennessee and/or for owners of businesses residing outside the State of Tennessee.

(8) Color photograph(s) of the mobile food vendor vehicle's interior and exterior.

(9) Permission to obtain a background check of owner(s) of mobile food vendor vehicles. The city reserves the right to reject an applicant if he or she (or in the case of an LLC or corporation, its owner(s)):

(a) Is a registered sex offender;

(b) Has been convicted of a felony in the past ten (10) years;

(c) Has a chronic history of an unreasonable number and kind of moving vehicle violations as determined by the chief of police; or

(d) Presents an unreasonable public health and safety risk based on past criminal history as determined by the chief of police.

The applicant owner must also acknowledge and affirm his, her or its duty, as hereby required by this code, to perform background checks on each of his employees or agents operating the mobile food vendor vehicle permitted herein. The applicant must acknowledge and affirm that he, she or it will not allow an employee or agent to work in the city as a mobile food vendor if such employee or agent is a registered sex offender, or if he or she has been convicted of a felony within the past ten (10) years.

(10) Payment of an application fee of one hundred twenty dollars ($120.00) which will be prorated by month for the first year of the permit at a rate of ten dollars ($10.00) per month of operation. No refunds will be issued. Any day in the month where the permit is in place will require payment for that entire month.

(11) Such other relevant information as may be reasonably requested by the city after review of submission of the material in order to assure full review of the information needed to assess the impact of the proposed operation on the health, safety and well-being of the public. (1999 Code, § 9-1105)

9-906. Permit renewal. A permit issued under this section shall be valid for the remainder of the calendar year from the date of issuance and shall be renewed on an annual basis on or by January 1 of each year upon proper application and payment of the permit fee of an additional one hundred twenty dollars ($120.00) per year. A permit shall be valid for only one (1) mobile food vendor vehicle. Each operator and/or applicant shall file additional application and pay an additional permit fee for each additional mobile food vendor vehicle. No refunds will be issued for renewed permits and no renewed permits for partial years will be issued. (1999 Code, § 9-1106)

9-907. Permit and decal. Each applicant, upon being issued a permit under this section, shall also be issued a decal which the mobile food vendor must display on the right front windshield's lower corner on each mobile food vendor vehicle, or at such other location on the vehicle as the city in writing shall approve. (1999 Code, § 9-1107)

9-908. General requirements of mobile food vendor vehicles. All exterior bodywork and mechanical equipment of a mobile food vendor vehicle shall be maintained in good condition, free of excessive wear, tear or damage. All exterior paint work shall be maintained in good condition, free of substantial scratches, chips, rust, dents and abrasions. All windshield and window glass of mobile food vendor vehicles shall be maintained free of cracks, scratches, pitting, abrasions and other conditions that may cause a hazard or reduce clarity of vision. (1999 Code, § 9-1108)

9-909. Operating in residential neighborhoods. A mobile food vendor may operate/serve on private property within a residential neighborhood within the parameters of this section:

(1) The residential property owner or long-term lessee(s) (defined as persons with a lease with a term of one (1) year or more) of the lot where the MFV will operate must apply for a and receive a residential MFV event permit from the city recorder's office before the MFV can operate. An MFV can only operate in a residential zone according to the requirements of such permit and as stated in this chapter.

(2) Only up to two (2) residential MFV event permits will be granted at the same address within a calendar year.

(3) The residential property owner or long-term lessee must complete a "MFV residential event application" and pay a twenty dollar ($20.00) application fee prior to event date in order to be eligible for a permit.

(4) It is the responsibility of the MFV to verify that the owner or long-term lessee of the property where service will take place has a valid permit. It is the responsibility of the residential property owner or long-term lessee to verify that the MFV has an active city issued MFV permit.

(5) The allowed hours of operation are the same as set forth in §14-211(29) of this code. The duration of the event may not exceed three (3) consecutive hours.

(6) Any mobile food vendor vehicle must remain on the permitted private property during the duration of the event and must not set up on or impair use of the public right-of-way. The event cannot impede traffic or cause other public safety concerns or issues.

(7) At no time shall an MFV use private residential events as their primary source of business.

(8) At no time shall an MFV offer a property owner or any lessee compensation for the use of property for private events. (Ord. #2021-22, May 2021)

9-910. Inspections. (1) Department of health primary. Nothing in this section shall be construed as limiting or replacing the role of the Tennessee Department of Health which has the primary task of inspecting mobile food vendor vehicles.

(2) Entry. The city police and other officials shall have the right at any time after displaying proper identification to enter into or upon any mobile food vendor vehicle for the purpose of ascertaining whether or not any provisions of this section are being violated and for general inspection purposes.

(3) Shut down. Any mobile food vendor vehicle which is found after any city inspection to be unsafe or not compliant with this chapter may be directed to be out of operation until the deficiency is corrected.

(4) Inspections. The Maryville Fire Department must inspect all mobile food vendor vehicles and trailers prior to issuance of a permit. (1999 Code, § 9-1109, as amended by Ord. #2021-22, May 2021)

9-911. Exemptions. Mobile food vendors that are part of, and participating in, a city permitted carnival will not be required to comply with the requirements of this chapter as far as participation in such carnival is concerned.

Mobile food vendors that are part of, and participating in, a city officially approved special event will not be required to comply with the requirements of this chapter as far as participation in such city officially approved special event is concerned.

A mobile food vendor may participate in only one (1) city officially approved special event per calendar year under this exemption without having to obtain a permit and otherwise comply with this chapter. This section will not apply to recurring events such as community events and farmers' markets. The exemption will apply, however, to events such as, or similar to, Summer on Broadway, Smoky Mountain Scottish Festival and Games, and Taste of Blount. (1999 Code, § 9-1110)

9-912. Violations and penalty. Violations of this chapter are subject to the general penalty clause for the City of Maryville. The city may also suspend or revoke a permit and decal issued hereunder for violation of this chapter. The owner or long-term lessee of any property on which a mobile food vendor operates may be held liable to for any violations of this ordinance. (1999 Code, § 9-1111, as amended by Ord. #2021-22, May 2021)

TITLE 10

ANIMAL CONTROL[1,2]

CHAPTER

CHAPTER 1

DEFINITIONS

SECTION

10-101. Enumerated. As used in this title, the following terms shall mean:

(1) "Animal control officer." The person or persons employed or designated by the city manager as the municipality's enforcement officer.

(2) "Animal shelter." Any premises designated by action of the City of Maryville for the purpose of impounding and caring for all animals found running at large in violation of this title.

(3) "At large." Any animal shall be deemed to be at large when he is off the property of his owner and not under control of a competent person.

(4) "Exposed to rabies." An animal has been exposed to rabies within the meaning of this title if it has been bitten by, or been exposed to, any animal known to have been infected with rabies.

(5) "Kennel." Any person, group of persons, or corporations engaged in breeding, buying, selling, or boarding dogs or cats.

(6) "Owner." Any person, group of persons, or corporation owning, keeping, or harboring animals.

(7) "Restraint." A dog or cat is under restraint within the meaning of this title if he is controlled by a leash, under control of a competent person and obedient to that person's commands, on or within a vehicle being driven or parked on the streets, or within the property limits of its owner or keeper.

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[1]Charter reference: art. II, § 1(26).

[2]Wherever this title mentions dogs it pertains to dogs and cats.

(8) "Spayed female." Any female dog which has been operated upon to prevent conception. (1999 Code, § 10-101, modified)

CHAPTER 2

DOGS AND CATS

SECTION

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor within the City of Maryville any dog over three (3) months of age or any cat over three (3) months of age 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 to 68-8-113) or other applicable law. (1999 Code, § 10-201, modified)

10-202. Dogs or cats to wear collars, choke chains, or harness with tags. It shall be unlawful for any person to own, keep, or harbor within the City of Maryville any dog or cat which does not wear a collar, choke chain, or harness with a tag evidencing the vaccination and registration as required by the preceding section. (1999 Code, § 10-202)

10-203. Running at large prohibited. It shall be unlawful for any person to permit any dog or cat owned by him or under his control, or which may be found habitually on premises occupied by him, to run at large within the corporate limits. (1999 Code, § 10-203)

10-204. Noisy dogs prohibited. It shall be unlawful for any person to keep or harbor any dog which, by loud and frequent barking, whining, or howling disturbs the peace and quiet of any neighborhood. (1999 Code, § 10-205)

10-205. Nuisance defined; actions constituting a nuisance. (1) The actions of a dog or cat constitute a nuisance when a dog or cat disturbs the rights of, threatens the safety of, or damages the property of, or injures the person of a member of the general public, or interferes with the ordinary use and enjoyment of their property.

(2) It shall be unlawful for any person to own, keep, possess, or maintain a dog or cat in such a manner as to constitute a public nuisance. By way of example and not a limitation, the following acts or actions by an owner or possessor of an animal are hereby declared to be a public nuisance and, therefore, unlawful:

(a) Failure to exercise sufficient restraint necessary to control a dog or cat.

(b) Allowing or permitting a dog or cat to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, shrubs, lawns, flowers, or vegetables.

(c) Maintaining a vicious dog or cat. (See chapter 5 of this title).

(d) Maintaining dogs or cats in an unsanitary environment which results in offensive odors or is dangerous to the animal or the public health, welfare, or safety.

(e) Maintaining property in a manner that is offensive, annoying, or dangerous to the public health, safety, or welfare because of the number, type, variety, density, or location of the dogs or cats on the property.

(f) Maintaining a dog or cat that is diseased or dangerous to the public health.

(g) Maintaining a dog or cat that habitually or repeatedly chases, snaps at, attacks, or barks at pedestrians, bicycles, or vehicles.

(h) Failure to confine a female dog while in heat for twenty-four (24) days in a building or secure enclosure in such a manner that she will not be in contact with another dog, or create a nuisance by attracting other dogs. This subsection shall not be construed to prohibit the intentional breeding of dogs within an enclosed area on the premises of the owner of the dog which is being bred.

(3) Any dog, cat or other animal which has been determined by the animal control officer to be a public nuisance based on the criteria found in subsection (2) above of this section, and which has been found at large and impounded at the City of Maryville Animal Control Facility may not be redeemed by the owners unless such impoundment and boarding fees, as established by resolution of the city council, are paid. However, if said dog, cat or other animal is impounded for a third or subsequent offense, redemption must be authorized by any court having jurisdiction. (1999 Code, § 10-206)

10-206. Ignorance of dog's or cat's habits no defense. It shall be the duty of any person owning, maintaining, or harboring any dog or cat to maintain close personal supervision of said animal, and ignorance of the habits or character of the dog or cat on the part of such person shall be no defense in actions arising under this chapter. (1999 Code, § 10-207)

10-207. Leash requirement in certain areas of city parks or property. It shall be unlawful for any person who owns or has possession, charge, or custody of any dog to take the dog into, or allow the dog to enter, any public park or public property in the city without having the dog at all times under restraint of a leash in all areas of the parks or property where signs are posted requiring a leash. Where signs are not posted requiring a leash, the dog shall at all times be under control of the owner or other person having custody of the dog. (1999 Code, § 10-208)

10-208. Dogs and cats in food service establishments. No dog or cat shall be permitted or kept for any period of time in any room in which food is prepared, processed, stored, or sold in any restaurant or other food service establishment licensed by the city. This section shall not apply to guide dogs accompanied by blind customers of such establishments, nor to police patrol dogs accompanied by a police officer in the course of his duties. (1999 Code, § 10-209)

10-209. Dogs killing waterfowl. Any dog found in the act of killing waterfowl in the city may be summarily destroyed by the animal control officer or any police officer if such animal cannot be apprehended after reasonable effort. (1999 Code, § 10-210)

10-210. Pet shop inspections. The animal control officer or any police officer of the city shall have the right to inspect any pet shop within the city to determine whether the pet shop is in compliance with the provisions of this chapter and other ordinances of the city.

The chief of police, with the approval of the city manager, shall have the authority to set standards of cleanliness, humane treatment, and any other reasonable factors regarding the operation of a pet shop. (1999 Code, § 10-211)

10-211. Confinement of dogs or cats suspected of being rabid. If any dog or cat has bitten any person, or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the animal control officer or chief of police may cause such dog or cat to be confined or isolated for a period of ten (10) days. (1999 Code, § 10-212)

10-212. Seizure or disposition of dogs and cats. (1) Any dog or cat found running at large may be seized by the animal control officer or any police

officer and placed in an animal shelter provided or designated by the city council. If said dog or cat is wearing a tag, or if it is known that the dog or cat has an owner, the dog or cat may be held at the animal shelter for ten (10) days, if not claimed sooner.

(2) The owner, if known, shall be notified in person, by telephone, or by a post card addressed to the last known mailing address to appear within ten (10) days and redeem his or her dog or cat by paying the pound fee, in accordance with a schedule approved by the city council, or the dog or cat will be humanely destroyed or sold. If said dog or cat is not wearing a tag and it is not known that the dog or cat has an owner, it may be humanely destroyed or sold unless legally claimed by the owner within five (5) days.

(3) No dog or cat shall be released in any event from the animal shelter unless or until such dog or cat has been vaccinated against rabies and has a tag evidencing such vaccination placed on its collar.

When, because of its viciousness or apparent infection with rabies, a dog or cat running at large cannot be safely impounded, it may be summarily destroyed by the animal control officer or any police officer. (1999 Code, § 10-213)

10-213. Court proceedings against dog or cat owners. If a dog or cat is impounded, the animal control officer, or any police officer, may institute proceedings in the city court on behalf of the city against the owner, charging the owner with a violation of this chapter. Nothing in this section shall be construed as preventing any person from instituting a proceeding in the city court for violation of this chapter where there has been no impoundment. (1999 Code, § 10-214)

10-214. Injured or killed dogs or cats. Dogs or cats injured or killed in the streets shall be considered as running at large, and the animal control officer or any police officer may remove all such animals. The owner of any injured dog or cat shall be liable for impoundment costs or veterinarian charges. The public works department may remove dead animals from any right-of-way. (1999 Code, § 10-215)

10-215. Inspections of premises. For the purpose of making inspections to ensure compliance with the provisions of this chapter, the animal control officer or any police officer shall be authorized to enter, at any reasonable time, any pet shop, food handling service or restaurant, or any other premises where he has reasonable cause to believe a dog or cat is being kept in violation of this chapter. (1999 Code, § 10-216)

10-216. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify

the health officer and dispose of such animal in such manner as the health officer shall direct. (1999 Code, § 10-217)

CHAPTER 3

ANIMALS IN GENERAL

SECTION

10-301. Running at large prohibited. It shall be unlawful for any owner of any cows, swine, sheep, horses, donkeys, mules or goats, or other livestock, or any chickens, ducks, geese, turkeys, or other domestic fowl to knowingly or negligently permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1999 Code, § 10-301)

10-302. Vicious animals other than dogs and cats. No one shall keep, possess, or harbor a vicious animal in the city. It shall be the duty of any animal control officer or police officer to impound any such animal, and if impoundment cannot be made with safety to the animal control officer, police officer, or other citizens, the animal may be destroyed without notice to the owner, keeper, or possessor. (1999 Code, § 10-302)

10-303. Improper care of animals prohibited. (1) No person owning or keeping an animal or fowl shall fail to provide it with the minimum care, nor shall such person keep an animal or fowl under unsanitary conditions or in an enclosure that is overcrowded, unclean, or unhealthy.

(2) Except for emergencies or circumstances beyond the owner's control, an animal or fowl is deprived of minimum care if it is not provided with care sufficient to preserve the health and well being of the animal considering the species, breed, and type of animal or fowl. Minimum care includes, but is not limited to, the following requirements:

(a) Food of sufficient quantity, quality, and nutrition to allow for normal growth or maintenance of body weight and health.

(b) Open or adequate access to potable water in sufficient quantities to satisfy the animal's needs. Snow or ice is not an adequate water source. Fowl shall at all times be provided with receptacles kept constantly with clean water.

(c) Access to a barn, doghouse, or other shelter sufficient to protect the animal from the elements.

(d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect, or disease.

(3) An enclosure is overcrowded unless its area is at least the square of the length of the animal in inches (from tip of nose to base of tail) plus six inches (6") for each animal confined therein, and the height must allow for each animal to fully stand upright.

(4) An enclosure is unclean when it contains an excessive amount of animal waste.

(5) An enclosure is unhealthy when its condition is likely to cause illness or injury to the animal or fowl. (1999 Code, § 10-303)

10-304. Livestock and poultry prohibited from residing within corporate limits; exceptions. As further set forth in title 14 of the Maryville City Code, livestock and poultry are not permitted to reside within the corporate limits except as legal pre-existing, nonconforming uses unless specifically approved by the board of zoning appeals as a special exception use. "Livestock" shall be defined to include, but not be limited to, cattle, horses, mules, swine, goats, sheep, llamas and donkeys. "Poultry" is defined to include, but not be limited to, chickens, hens, roosters or turkeys. (1999 Code, § 10-304)

10-305. Cleanliness of pens or enclosures; adequate food, water and shelter, etc. to be provided to animals and fowls; exceptions. 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, and it shall be unlawful for the owner thereof to keep the same otherwise. It shall be unlawful for any person to allow any animal or fowl of any kind to 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. Only livestock or poultry that are legal pre-existing, nonconforming uses may reside at a location within the corporate limits unless approved by the board of zoning appeals as a special exception use. (1999 Code, § 10-305)

10-306. 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 animal control officer or by any police officer of the city and confined in a pound provided or designated by the City of Maryville. 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, and the animal or fowl will be humanely destroyed or sold if not claimed within ten (10) days. If the owner is not known, a notice describing the impounded animal or fowl will be posted at the entrance to the animal shelter. The notice shall state that the impounded

animal or fowl must be claimed within ten (10) days by paying the pound costs or the same will humanely be destroyed or sold. If not claimed by the owner within the specified period, the animal or fowl shall be sold or humanely destroyed. (1999 Code, § 10-307)

10-307. Prohibition of horses in public parks and exceptions. It shall be unlawful for any person who owns or has possession, charge, control or custody of any horse or other mammal of the genus Equus to take the same into, allow the same to enter, or to permit the same to be ridden in, any public park in the city, except during special events occurring at any public park which events have been approved by the city manager or chief of police, or their designee, and which approval specifically authorizes the time and presence of such animals in said park or parks. (1999 Code, § 10-308)

10-308. Abandonment. It shall be unlawful for any person to abandon an animal that is under his or her ownership or care. If an animal is found abandoned, the animal may be impounded. Abandonment consists of:

(1) Leaving an animal for a period of in excess of twenty-four (24) hours without providing for the feeding and watering of said animal and for someone to check on the animal's condition.

(2) Leaving an animal by a roadside.

(3) Leaving an animal on either public or private property without the property owner's consent.

Any person convicted of violating this section will be subject to a maximum penalty of fifty dollars ($50.00) per animal, per violation. Each animal abandoned is a separate violation. (1999 Code, § 10-309)

CHAPTER 4

CONTROLS AND ENFORCEMENT

SECTION

10-401. Animal shelter. The word "shelter" as used in title 10 of the Maryville Municipal Code, shall refer to the Animal Control Facility operated by the City of Maryville. (1999 Code, § 10-401)

10-402. Rabies control. (1) Every animal or rodent which bites a person shall be promptly reported to the animal control officer. It shall thereupon be securely quarantined at the direction of the animal control officer for a period of ten (10) days and shall not be released from such quarantine except by written permission of the animal control officer. At the discretion of the animal control officer, such quarantine may be on the premises of the owner, at the shelter designated as the city animal shelter, or, at the owner's option and expense, in a veterinary hospital of his choice. In the case of stray animals, or in the cases of animals whose ownership is not known, such quarantine shall be at the shelter designated as the animal shelter.

(2) The owner, upon demand by the animal control officer, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for supervised quarantine, the expense of which shall be borne by the owner. Said animal may be reclaimed by the owner if it is adjudged free of rabies, upon payment of the required fees, and upon compliance of the licensing provisions set forth in § 10-201.

(3) When rabies has been diagnosed in an animal under quarantine, or rabies suspected by a licensed veterinarian, and the animal dies while under such observation, the animal control officer shall immediately send the head of such animal to the state health department for pathological examination, and shall notify the proper public health officer of the city of the diagnosis.

(4) When one (1) or both reports indicate a positive diagnosis of rabies, the animal control officer shall recommend an area-wide quarantine for a period of sixty (60) days, and upon the invoking of such quarantine, no pet animal shall be taken into the streets, or permitted to be in the streets, during such period

of quarantine. During such quarantine, no animal may be taken or shipped from the city without written permission of the animal control officer.

During this quarantine period and as long afterward as he decides it is necessary to prevent the spread of rabies, the city health officer shall require that all dogs or cats, three (3) months of age and older, shall be vaccinated against rabies with a canine rabies vaccine approved by the Biologics Control Section of the U.S. Department of Agriculture. The types of approved canine anti-rabies vaccine to be used and the recognized duration of immunity for each shall be established by the city health officer. All vaccinated dogs or cats shall be restricted (leashing or confinement on enclosed premises) for thirty (30) days after vaccination. During the quarantine period, the city health officer shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency canine rabies vaccination clinics strategically located throughout the area of the health jurisdiction.

No dog or cat which has been impounded by reason of its being a stray, unclaimed by its owner, shall be allowed to be adopted by the animal shelter during the period of rabies emergency quarantine, except by special authorization of the city health officer and the animal control officer.

(5) Dogs or cats bitten by a known rabid animal shall be immediately destroyed or if the owner is unwilling to destroy the exposed animal, strict isolation of the animal in a kennel for six (6) months shall be enforced. If the dog or cat has been previously vaccinated within time limits established by the city health officer or public health service based on the kind of vaccine used, revaccination and restraint (leashing and confinement) for thirty (30) days shall be carried out.

(6) In the event there are additional cases of rabies occurring during the period of the quarantine, such period of the quarantine may be extended for an additional six (6) months.

(7) No person shall kill, or cause to be killed, or remove from the corporate limits, any rabid animal, any animal suspected of having been exposed to rabies, or any animal which has bitten a human, except as herein provided, without written permission from the animal control officer.

(8) The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the animal control officer.

(9) The animal control officer shall direct the disposition of any animal found to be infected with rabies.

(10) No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefor by the animal control officer.

(11) Each and every provision of this chapter relative to rabies control shall be applicable to all animals and rodents, and the owners thereof in the City of Maryville. (1999 Code, § 10-402)

10-403. Reports of bite cases. It shall be the duty of every physician or other medical practitioner to report to the animal control officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control. (1999 Code, § 10-403)

10-404. Responsibilities of veterinarians. It shall be the duty of every licensed veterinarian to report to the animal control officer any animal considered by him to be a rabies suspect. (1999 Code, § 10-404)

10-405. Exemptions. (1) Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this chapter except where expressly stated.

(2) The licensing and vaccination requirements of this chapter shall not apply to any dog belonging to a non-resident of the city and kept within the city for not longer than thirty (30) days, provided all such dogs shall at all times while in the city be kept within a building, enclosure, or vehicle, or be under restraint by the owner. (1999 Code, § 10-405)

10-406. Inspections of premises. For the purpose of discharging the duties imposed by this title and to enforce its provisions, the animal control officer or any police officer is empowered to enter upon any premises upon which a dog or cat is kept or harbored, and to demand the exhibition by the owner of such dog or cat or the exhibition of the license for such dog or cat. It is further provided that the animal control officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal when, in his opinion, it is required to ensure humane treatment to such animal. (1999 Code, § 10-406)

10-407. Interference with animal control officer. No person shall interfere with, hinder, or molest the animal control officer in the performance of any duty imposed by this chapter or seek to release any animal in the custody of the animal control officer except as provided in this chapter. (1999 Code, § 10-407)

10-408. Records of animal control officer. (1) It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of the licensing, impoundment, and disposition of all animals coming into his custody.

(2) It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of all bite cases reported to him and his investigation of same. (1999 Code, § 10-408)

CHAPTER 5

VICIOUS DOGS AND CATS

SECTION

10-501. Definitions. (1) "Vicious cat" means:

(a) Any cat with a known propensity, tendency, or disposition to attack without provocation, to cause serious injury, or to otherwise threaten the safety of human beings or domestic animals; or

(b) Any cat which, without provocation, has attacked or bitten a human being or domestic animal.

(2) "Vicious dog" means:

(a) Any dog with a known propensity, tendency, or disposition to attack without provocation, to cause serious injury, or to otherwise threaten the safety of human beings or domestic animals;

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

(c) Any dog owned or harbored primarily, or in part, for the purpose of dog fighting, or any dog trained for dog fighting. (1999 Code, § 10-501)

10-502. Procedure for declaring a dog or cat vicious. (1) An animal control officer, police officer, or any adult person may request under oath that a dog or cat be classified as vicious as defined in § 10-501 by submitting a sworn, written complaint. Upon receipt of such complaint, the city manager (or his designee) shall notify the owner of the dog or cat, in writing, that a complaint has been filed and that an investigation into the allegations as set forth in the complaint will be conducted.

(2) At the conclusion of an investigation, the city manager (or his designee) may:

(a) Determine that the dog or cat is not vicious and, if the dog or cat is impounded, waive any impoundment fees incurred and release the dog or cat to its owner;

(b) Determine that the dog or cat is vicious and order the owner to comply with the requirements for keeping a vicious dog or cat set forth in § 10-506, and if the dog or cat is impounded, release the dog or cat to its owner after the owner has paid all fees incurred for impoundment. If all impoundment fees have not been paid within ten (10) days after a final determination that the dog or cat is vicious, the city manager (or his designee) may cause the dog or cat to be humanely destroyed; and

(c) Nothing in this chapter shall be construed to require a dog or cat to be declared vicious prior to taking action under state law. (1999 Code, § 10-502)

10-503. Notification of vicious dog or vicious cat declaration.

(1) Within five (5) days after declaring a dog or cat vicious, the city manager (or his designee) shall notify the owner by certified mail or personal delivery of the dog's or cat's designation as a vicious dog or vicious cat and other requirements for keeping a vicious dog or vicious cat as set forth in § 10-506. The city manager (or his designee) shall also notify the City of Maryville Animal Control Facility of the designation of any dog as a vicious dog or the designation of any cat as a vicious cat.

(2) The notice shall inform the owner that he or she may request, in writing, a hearing to contest the city manager's finding (or that of this designee) and designation within five (5) days after delivery of the vicious dog declaration or vicious cat declaration notice. (1999 Code, § 10-503)

10-504. Hearing on vicious dog declaration or vicious cat declaration. (1) The city manager (or his designee) shall hold such a hearing within ten (10) days after receiving the owner's written request for such a hearing. The city manager (or his designee) shall provide notice of the date, time, and location of the hearing to the owner by certified mail or personal delivery and to the complainant by regular mail.

(2) At a hearing, all interested parties shall be given the opportunity to present evidence on the issue of the animal's viciousness. Criteria to be considered at a hearing shall include, but not be limited to, the following:

(a) Provocation;

(b) Severity of attack or injury to a person or animal;

(c) Previous aggressive history of the dog or cat;

(d) Observable behavior of the dog or cat;

(e) Site and circumstances of the incident; and

(f) Statements from interested parties.

(3) A determination at the hearing that the dog or cat is in fact a vicious dog or vicious cat as defined in § 10-501 shall subject the dog or cat and its owner to the requirements of this chapter.

(4) Failure of the owner to request a hearing shall result in the dog or cat to being finally declared vicious, and shall subject the dog or cat and its owner to the requirements of this chapter. (1999 Code, § 10-504)

10-505. Appeal from vicious dog declaration or vicious cat declaration. If the city manager (or his designee) determines that the dog or cat is vicious at the conclusion of the hearing conducted under § 10-504, that decision shall be final unless the owner of the dog or cat appeals the decision to circuit court in the time and manner provided by state law. (1999 Code, § 10-505)

10-506. Requirements for keeping a vicious dog or cat. The owner of a vicious dog or cat shall be subject to the following requirements:

(1) Confinement. All vicious dogs or cats shall be securely confined indoors or in an enclosed and locked pen or structure upon the premises of the owner that is suitable to prevent the entry of children and is designed to prevent the dog or cat from escaping. The pen or structure shall have minimum dimensions of five feet (5') in width and length by ten feet (10') in height and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two feet (2'). All pens or structures must be kept clean and sanitary. The enclosure must provide shelter and protection from the elements and must provide adequate exercise room, light and ventilation. Under no circumstances may a vicious dog or cat be confined by a fence, whether it is electronic, a similar underground wire system, or otherwise. Under no circumstances may more than one (1) dog or cat be kept in any one (1) pen or structure.

(2) Indoor confinement. No vicious dog or cat may be kept on a porch, patio or in any part of a house or structure that would allow the dog or cat to exit the structure on its own volition. In addition, no vicious dog or cat may be kept in a house or structure when open windows or screen doors are the only obstacle preventing the dog or cat from exiting the house or structure.

(3) Number of vicious dogs or cats per residence. Only one (1) animal that has been declared vicious may be owned per residence.

(4) Leash and muzzle. The owner of a vicious dog or cat shall not allow the dog or cat to go outside its kennel, pen, or structure unless the dog or cat is muzzled, under the physical control of a capable adult, and restrained by a leash not more than four feet (4') in length, which shall be bright yellow in color, and of sufficient strength to control the dog or cat. The muzzle must not cause injury to the dog or cat or interfere with its vision or respiration, but must prevent the dog or cat from biting any human being or animal.

(5) Signs. The owner of a vicious dog or cat shall display, in a prominent place on the owner's premises, a clearly visible warning sign reading "Beware of Vicious Dog." The sign shall be readable from the driveway entrance or street. The owner shall also display a sign with a symbol warning children of the presence of a vicious dog or cat. Similar signs shall be posted on the dog's or cat's kennel, pen or structure. The sign shall be at least twelve inches (12") by twelve inches (12") in size.

(6) Insurance. The owner of a vicious dog or cat shall obtain public liability insurance of at least one hundred thousand dollars ($100,000.00) per dog or cat, insuring the owner for any damage or personal injury that may be caused by the owner's vicious dog or cat. The policy shall contain a provision requiring the city to be notified immediately by the agent issuing the policy in the event that the policy is cancelled, terminated or expired. The owner must provide proof of the insurance to the City of Maryville Animal Control Facility. If there is a lapse in insurance or a cancellation, the owner shall be in violation of this chapter.

(7) Compliance; consequences for failure to comply. (a) For the safety and welfare of the general public, an owner of a vicious dog or cat must comply with the requirements for keeping a vicious dog or cat within the following timeframe:

(i) Immediate. Immediately upon the owner's receipt of the declaration notice, the owner shall comply with the confinement requirements set forth in § 10-506(1) and (2). The owner may continue to keep the vicious dog or cat confined indoors or may, at the owner's option, confine the vicious dog or cat outdoors provided the requirements of § 10-506(1) are met at all times while the vicious dog or cat is confined outdoors.

(ii) Within twenty-four (24) hours. The requirements set forth in § 10-506(4) and (5) must be met within twenty-four (24) hours of the owner's receipt of the declaration notice.

(iii) Within five (5) days. The requirement set forth in § 10-506(3) and (6) must be met within five (5) days of the owner's receipt of the declaration notice.

(iv) Should an owner of a vicious dog or cat choose to contest the city manager's finding (or that of his designee) and designation of his or her dog or cat as vicious, and said owner has not complied with the requirements of this section within the allotted timeframe, the vicious dog or cat shall be delivered to the animal shelter for safe-keeping until the contest hearing is heard. The owner shall be responsible for any and all boarding fees for the vicious dog or cat, veterinarian or other professional services which the vicious dog or cat needs as determined by animal control officers, animal shelter staff, or the animal shelter's veterinarian,

and for any and all damage to city property caused by the vicious dog or cat.

(b) Failure of an owner to comply with any of the requirements for keeping a vicious dog or cat, or failure of an owner to continue compliance with said requirements, shall result in the vicious dog or cat being apprehended by the City of Maryville Animal Control Facility or the police department. Said vicious dog or cat shall remain in the custody and control of the division of animal control until such time as the owner can prove, to the city's satisfaction, compliance with the requirements for keeping a vicious dog or cat, or until the conclusion of five (5) working days, whichever occurs first. If the vicious dog or cat remains impounded at the conclusion of five (5) working days, said vicious dog or cat shall become the property of the city and may be destroyed. (1999 Code, § 10-506)

10-507. Impoundment. When a dog or cat has severely attacked a human being or domestic animal, and a police officer or animal control officer witnessed the attack or witnessed the injuries caused by the attack, such dog or cat shall be impounded. (1999 Code, § 10-507)

10-508. Notice of impoundment. Within five (5) days of impoundment of a dog or cat under § 10-507, the City of Maryville Animal Control Facility shall notify the dog's owner or cat's owner, if known, in writing of the impoundment. (1999 Code, § 10-508)

10-509. Hearing on impoundment and/or destruction. (1) The owner of an impounded dog or cat shall have the right to file, within five (5) days after receiving notice, a written request for a hearing before the city manager (or his designee) to contest the impoundment.

(2) Upon request by the owner for a hearing pursuant to subsection (1) above, a hearing shall be held within fourteen (14) days after the request for a hearing. Notice of the date, time, and location of the hearing shall be provided by certified mail or delivered personally to the dog's owner.

(3) The city manager (or his designee) shall issue a decision after the close of a hearing and shall notify the owner in writing of the decision.

(4) After considering all of the relevant evidence, the city manager (or his designee) may request the district attorney general to petition the circuit court to order the destruction of the impounded dog or cat, or may release the dog or cat to its owner conditional on the owner complying with the requirements for keeping a vicious dog or cat as set forth in § 10-506. (1999 Code, § 10-509)

10-510. Exceptions. (1) This chapter shall not apply to any dog used by the police department or law enforcement agency.

(2) No dog or cat shall be declared vicious for injury or damage sustained by a person who was entering the owner's property to commit a burglary, robbery, assault, willful trespass, or other tort or crime.

(3) No dog or cat shall be declared vicious for injury or damage sustained by a person who is teasing, tormenting, abusing, assaulting, or otherwise provoking the dog or cat.

(4) No dog or cat shall be declared vicious solely because it bites or attacks:

(a) A person assaulting its owner, excluding a police officer attempting to subdue or effect the arrest of a subject; or

(b) An unrestrained animal that attacks it or its young while it is restrained in compliance with this chapter. (1999 Code, § 10-510)

10-511. Change of status. The owner of a vicious dog or cat shall notify the City of Maryville Animal Control Facility:

(1) Immediately if the vicious dog or cat is unconfined and on the loose, or has attacked a human being or domestic animal without provocation;

(2) If the owner has moved outside of the city limits, in which case the owner shall give the owner's new address; or

(3) If the dog or cat has died. (1999 Code, § 10-511)

10-512. Change of ownership. (1) If the owner of a vicious dog or cat sells, gives away, or otherwise transfers custody of the vicious dog or cat, the owner shall, within three (3) days, provide the City of Maryville Animal Control Facility with the name, address, and telephone number of the new owner.

(2) The previous owner shall notify the new owner of the animal's designation as a vicious dog or a vicious cat, and, if the new owner resides within the city limits, of the requirements and conditions for keeping a vicious dog or vicious cat as set forth in § 10-506.

(3) If the new owner resides within the city limits, the new owner must obtain the required enclosure prior to the acquisition of the vicious dog or cat, or confine the dog or cat indoors.

(4) The new owner must fully comply with the provisions of this chapter, including obtaining liability insurance, prior to the acquisition of the vicious dog or vicious cat. (1999 Code, § 10-512)

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

CHAPTER 1

ALCOHOL[2]

SECTION

11-101. Possession or consumption of beer or alcoholic beverages on certain property prohibited.[3] (1) It shall be unlawful for any person:

(a) To possess an open container containing beer or alcoholic beverages, or to consume beer or alcoholic beverages on the premises of any retail beer sales outlet which does not have an on-premises permit.

(b) To possess an open container containing beer or alcoholic beverages, or consume beer or alcoholic beverages on any public street,

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

[2]Municipal code reference
Sale of alcoholic beverages, including beer: title 8.
State law reference
See *Tennessee Code Annotated* § 33-10-203 (*Arrest for Public Intoxication*, cities may not pass separate legislation).

[3]Municipal code reference
Public consumption of beer prohibited: § 8-206.

sidewalk, playground, school property, public park or recreational facility or public parking lot within the corporate limits of the City of Maryville.

(c) To possess an open container containing beer or alcoholic beverages, or to consume beer or alcoholic beverages on any privately-owned parking lot held open to use by the public.

(2) For the purposes of this section an "open container" is one which has any opening through which its contents may pass in order to be consumed by any person.

(3) Despite the provisions of this section, possession and consumption of beer is permitted during certain city sponsored or co-sponsored special events within the physical parameters of the special event zone during the time of the special event if otherwise provided by resolution of the city council. (1999 Code, § 11-103)

11-102. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Breaching the peace. (1) It shall be unlawful for any person to disturb the peace of others by striking or fighting another or by any other violent conduct, or by conduct calculated to provoke violence or violation of the law. No person shall do any act or use any language calculated or intended, or intending, to incite others to engage in riotous, violent or disorderly conduct. No person shall knowingly permit any offense enumerated in this section upon any premises owned or under the control of such person when it is in the power of such person to prevent or discontinue such prohibited acts or conduct.

(2) The language prohibited in this section is that language which by its common acceptance causes, or tends to cause, or incite an immediate breach of the peace. (1999 Code, § 11-401)

11-202. 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) 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.

(b) 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 persons in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) 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.

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

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

(f) 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.

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

(h) 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.

(i) 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.

(j) 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.

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

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

(a) Municipal vehicles. Any vehicle of the 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 municipality, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Commercial, non-commercial and non-profit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are commercial or non-commercial in character and in the course of advertising functions sponsored by non-profit organizations. (1999 Code, § 11-402, modified)

11-203. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 3

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-301. 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. (1999 Code, § 11-503)

11-302. False, misleading, etc. reports to police--intentional giving prohibited. It shall be unlawful for any person knowingly to make to the Maryville Police Department any false, misleading or unfounded report, or knowingly to offer any false, misleading or unfounded information of any type whatsoever, for the purpose of interfering with the operation of the Maryville Police Department or with the intention of misleading any police officer. (1999 Code, § 11-505)

CHAPTER 4

WEAPONS

SECTION

11-401. Air rifles, etc. It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or slingshot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, or other force-producing means or method. (1999 Code, § 11-601, modified)

11-402. Unlawful discharge of a weapon. It shall be unlawful for any person to discharge a firearm within the municipality with the exceptions of:

(1) Any commercial indoor firing range that has been constructed pursuant to all applicable municipal, state and federal rules, regulations and statutes; and

(2) Discharges that are otherwise permitted by law.

(3) Further exempted from the prohibition of unauthorized discharge of a firearm within the municipality are any firearm discharges occurring on the premises of a legally operating firearm manufacturer (defined as the property where the manufacturing facility is located) as follows:

(a) By any employee or authorized agent of such firearm manufacturer for the purpose of testing a firearm in the regular course of business;

(b) By any duly authorized participants in any shooting tournament or competition operating within the scope of such shooting tournament or competition hosted, sponsored or administered by such firearm manufacturer; or

(c) By employees, authorized agents, authorized visitors, authorized guests, customers, licensees, or other invitees of such firearm manufacturer for the purpose of engaging or participating in firearms training, practice, demonstration, evaluation, testing, or any shooting sports activity while under the supervision and control, either directly or indirectly, of the legally operating firearm manufacturer. (1999 Code, § 11-603, as amended by Ord. #2022-01, Jan. 2022, modified)

CHAPTER 5

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

11-501. Trespassing. The owner or person in charge of any lot or parcel of land, or any building or other structure within the corporate limits, may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land, or into any such posted building or other structure, without the consent of the owner or person in charge.

It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1999 Code, § 11-701)

11-502. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1999 Code, § 11-702)

11-503. 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. (1999 Code, § 11-704)

11-504. Prowling. No person shall knowingly prowl on premises owned or leased by another in the nighttime without the express or implied consent of that person. This provision shall not apply to public property such as public streets or parks. (1999 Code, § 11-705)

11-505. Window peeping. No person shall knowingly go upon property owned or leased by another and peep through the window of a building on that property without the express or implied consent of the person who owns or leases the property and the express or implied consent of any person being peeped upon. (1999 Code, § 11-706)

CHAPTER 6

MISCELLANEOUS

SECTION

11-601. Curfew for minors. It shall be unlawful for any minor under the age of eighteen (18) years to be abroad at night after 11:00 P.M. unless upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1999 Code, § 11-804)

11-602. Loitering in public places. (1) Definition of loitering. The term "loitering," as used in this section, is defined as willfully loafing, lounging, lingering, consorting or remaining idle with no apparent purpose, either with others or alone, on a public street, public highway, public sidewalk, public parking lot, or other public place or building when such behavior tends to hinder or impede the free and uninterrupted passage of vehicles, traffic, or pedestrians or when such behavior interferes with the free exercise of lawful commercial trade or other lawful activity in, on or near any such public place. "Loitering" is also defined as the act of parking a vehicle in a commercial or public parking area without any intent to shop or otherwise conduct business, or to engage in the use of parks or recreational facilities at the nearby establishments or locations for which such parking area is used.

(2) Places where loitering is prohibited. It shall be unlawful to loiter in any public place, including, but not limited to, sidewalks, public streets, public highways, public parking lots, school playgrounds, and public parks and recreation areas. No posting of signs is required for enforcement of this section in such public areas. Business owners maintaining parking areas for their customers' use may post such signs in such parking areas giving notice that loitering is prohibited on such private property. Such posting shall provide notice that this section shall be effective and may be enforced in the private parking area of such businesses.

(3) Violation. Any person or persons found to be in violation of this section shall be issued a citation to City of Maryville Municipal Court and shall be subject to a fine of not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) plus court costs. (1999 Code, § 11-806)

11-603. Smoking in certain places. (1) The term "smoke" or "smoking," as defined in this section, shall mean and include the carrying of a

lighted cigarette, a lighted cigar or a lighted pipe of any kind, or the lighting of a cigarette, cigar or pipe of any kind.

(2) It shall be unlawful for any person to smoke or carry any lighted smoking materials in any form at any time in the following public places within the City of Maryville:

(a) Within all public elementary and secondary schools, except in areas specifically designated by the superintendent as smoking areas and which are posted with one (1) or more signs which read: "Smoking Permitted in this Area."

(b) Public areas such as libraries and museums, except in areas specifically designated as smoking areas and which are posted with one (1) or more signs which read: "Smoking Permitted in this Area."

(c) All elevators used by the public in any building or place.

(3) All managers and owners of any establishments in the City of Maryville serving or doing business with the public and in which more than twenty-five (25) persons are employed, other than those specifically covered under subsection (2) above, may at their discretion bring their establishment within the provisions and restrictions of this section by notifying in writing the City Manager of the City of Maryville of their election so to do and by posting signs as herein provided within various areas of their businesses.

(4) Every owner or person in charge of a public place where smoking is prohibited as defined in subsection (2) above and every owner or person electing to bring their establishment under the provisions of this section as provided in subsection (3) above shall post and maintain one (1) or more signs in the areas where smoking is prohibited which shall read, "Smoking Prohibited by Law" in letters at least one inch (1") in height. Such signs shall be prominently displayed and located so as to be clearly visible to the public.

(5) Any person convicted of violating any of the provisions of this section shall be punished under the general penalty clause for this municipal code. (1999 Code, § 11-807)

11-604. Water conservation measures. (1) When the flow downstream at City of Maryville withdrawal operations in Little River is forty-one (41) cubic feet per second (CFS) or less, appeal to the water customers of the system will be made through the news media for voluntary water conservation.

(2) When the flow downstream of the withdrawal operations is forty cubic feet per second (40 CFS) or less, water supplied to customers of the system shall not be used for non-essential purposes. For this purpose "non-essential purposes" shall include, but not necessarily be limited to, filling swimming pools, car washing, car washing facilities, recreational facilities and watering of trees, lawns, gardens and other vegetation.

(3) When the flow downstream of the withdrawal operations is thirty-eight and a half cubic feet per second (38.5 CFS) or less the amount of water consumed by large industrial customers and large

non-residential/non-health care commercial customers shall be reduced by approximately five percent (5%) of their average daily consumption until notice is given that the restriction is no longer in effect.

(4) When any of the conditions specified in subsection (2) and subsection (3) above are existing or are eminent, official notice of these restrictions will be given promptly to the public through the news media.

(5) It shall be unlawful for any person, firm, association, partnership or corporation to violate or fail to comply with any of the provisions of this section, and any person, firm, association, partnership or corporation shall, upon conviction of any violation, be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each separate offense. Each day that a violation occurs shall be construed a separate offense and punished accordingly. (1999 Code, § 11-808, modified)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

CHAPTER 1

BUILDING CODE[1]

SECTION

12-101. Building code adopted. Pursuant to authority granted by the *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-510, and for the purpose of regulating the construction, alteration, repair, use and occupancy, location, maintenance, removal, and demolition of every building or structure, or any appurtenance connected or attached to any building or structure, the *International Building Code*,[2] 2018 edition, and appendices A and B thereto, with the modifications thereto hereinafter set forth, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code except as otherwise specifically stated in this chapter, and is hereinafter referred to as the "building code." (1999 Code, § 12-101)

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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.

12-102. Local modifications. The following sections and appendices of the *International Building Code*, 2018 edition, are hereby amended in the City of Maryville, as hereinafter provided:

(1) Chapter 1, Scope and Administration: Section 101.1 Title. Is hereby amended locally in the City of Maryville by inserting "City of Maryville" as the name of the jurisdiction.

(2) Chapter 1, Scope and Administration: Section 101.2.1 Appendices. Is hereby amended locally in the City of Maryville by inserting at the end of the section the following:

"The following Appendices are specifically included in the adoption. All others are excluded.

- Appendix A Employee Qualifications
- Appendix B Board of Appeals"

(3) Chapter 1, Scope and Administration: Section 101.4.3 Plumbing. Is hereby amended locally in the City of Maryville by deleting the last sentence and inserting the following:

"Private sewage disposal systems shall comply with the regulations of the Blount County Environmental Health Department."

(4) Chapter 1, Scope and Administration: Section 103.1 Creation of enforcement agency. Is hereby amended locally in the City of Maryville by deleting Section 103.1 in its entirety and replacing with the following:

"Section 103.1 Building Official. The provisions of this code shall be enforced by the Building Official."

(5) Chapter 1, Scope and Administration: Section 104.10.1 Flood hazard areas. Is hereby amended locally in the City of Maryville by deleting Section 104.10.1 in its entirety with no replacement.

(6) Chapter 1, Scope and Administration: Section 105.2 Work exempt from permit. Is hereby amended locally in the City of Maryville by deleting number 1 in its entirety and replace with:

"1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet if the structure has a permanent foundation or 400 square feet if the structure is a pre-manufactured building without a permanent foundation."

(7) Chapter 1, Scope and Administration: Section 105.4 Validity of permit. Is hereby amended locally in the City of Maryville by inserting the following at the beginning:

"A permit issued shall be construed to be a license to proceed with the work and shall not be construed as authority to violate, cancel, alter, or set aside any of the provisions of this code, nor shall such issuance of a permit prevent the Building Official from thereafter requiring a correction of errors in plans of in construction, or of violation of this code. The Building Official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error

or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code."

(8) Chapter 1, Scope and Administration: Section 105.5. Expiration. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"105.5. Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 60 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 30 days after the time the work is commenced. Work authorized by that permit shall be completed within the time frame set forth in the following:

For Building Permits with Construction Valuation in the amount of:

$0.1 - $250,000 - twelve (12) months;

$250,000.01 - $500,000.00 - eighteen (18) months;

$500,000.01 - $1,000,000.00 - twenty four (24) months;

$1,000,000.01 and up - thirty-six (36) months

Extensions of time may be granted by the Building Official; however, the extension must be requested in writing and justifiable cause demonstrated. The Building Official is authorized to grant, in writing, one or more extensions of time. Each extension shall be for a period of time not to exceed 180 days. A fee of fifty percent (50%) of the permit fee of the original permit shall be charged to cover administrative expenses for each extension granted."

(9) Chapter 1, Scope and Administration: Section 105.6 Suspension or revocation. Is hereby amended locally in the City of Maryville by inserting at the end the following:

"After a permit has become void, if the Owner wishes to commence construction to complete the structure for which the original permit was issued, the Owner shall reapply for a new building permit for the completion of the construction. When a new building permit is issued, the permit fee for the completion of the construction shall be equal to the permit fee that was paid when the original permit was issued."

(10) Chapter 1, Scope and Administration: Section 105.7 Placement of Permit. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"105.7 Placement of Permit. The building permit or copy shall be kept on the site of the work or be made available to inspectors upon request until the completion of the project."

(11) Chapter 1, Scope and Administration: Section 107.3.4 Design Professional in responsible charge. Is hereby amended locally in the City of Maryville by inserting the following at the end of the first paragraph:

"The registered design architect shall be the responsible design professional in responsible charge unless otherwise designated by the Owner or the Owner's authorized agent."

(12) Chapter 1, Scope and Administration: Section 110.5 Inspection request. Is hereby amended locally in the City of Maryville by inserting the following at the end:

"No inspections shall be performed on any site or portion thereof where there is an unsafe condition or a violation of the occupational safety and health standards for the construction industry promulgated by the Occupational Safety and Health Administration (OSHA)."

(13) Chapter 1, Scope and Administration: Section 111.1 Change of occupancy. Is hereby amended locally in the City of Maryville by inserting the following at the end of the paragraph and before the exception:

"Said certificate shall not be issued until the following have been tested and approved by the appropriate agency or department:

- Fire protection systems
- Mechanical Systems
- Utility systems
- Site work beyond the confines of the building
- General building construction requirements-"

(14) Chapter 1, Scope and Administration: Section 113 Board of Appeals. Is hereby amended locally in the City of Maryville by changing the title from "Board of Appeals" to "Construction Board of Adjustments and Appeals." Every occurrence of "Board of Appeals" in Section 113 and its subsections shall be changed to "Construction Board of Adjustments and Appeals Board."

(15) Chapter 1, Scope and Administration: Section 114.4, Violation and Penalties. Is hereby locally amended in the City of Maryville by deleting the section in its entirety and insert in its place:

"Any person, firm, corporation, tenant, Owner or agent who shall violate a provision of this code, or fail to comply therewith or with any of the requirements thereof, or who shall erect, construct, alter, demolish, or move any structure, or has erected, constructed, altered, repaired, moved, or demolished a building or structure in violation of a detailed statement or drawing submitted and permitted thereunder, or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law and the enforcement and penalty clause of this Ordinance."

(16) Chapter 10, Means of Egress: Section 1008.2 Means of egress illumination. Is hereby amended locally in the City of Maryville by inserting the following under "Exceptions:"

"5. Unenclosed pavilions and similar structures that are not provided with electrical utility service and not intended for occupancy after daylight hours."

(17) Chapter 10, Means of Egress: Section 1015.2 Where required. Is hereby amended locally in the City of Maryville by deleting the first sentence and replacing it with the following sentence:

"Guards shall be provided along open-sided walking surfaces or ground surfaces, mezzanines, industrial equipment platforms, retaining walls, stairways, ramps, landings and any other locations that are located more than 30 inches above the floor or grade below at any point within 36 inches horizontally to the edge of the open side."

(18) Chapter 16, Structural Design: Section 1612.3 Establishment of flood hazard areas. Is hereby amended locally in the City of Maryville by inserting "Blount County, Tennessee, and Incorporated Areas, City of Maryville Community Number 475439" for name of jurisdiction and inserting "September 19, 2007" as the date of issuance.

(19) Chapter 28: Mechanical Systems. Is hereby amended locally in the City of Maryville by deleting every reference to "International Fuel Gas Code." The *International Fuel Gas Code* is specifically not adopted in the City of Maryville.

(20) Chapter 29, Plumbing Systems: Section 2901.1 Scope. Is hereby amended locally in the City of Maryville by deleting the sentence "Private sewage disposal systems shall conform to the International Private Sewage Disposal Code." and replacing with the following:

"Private sewage disposal systems shall comply with the regulations of the Blount County Environmental Health Department."

(21) Chapter 29, Plumbing Systems: Section 2902.3 Employee and public toilet facilities. Is hereby amended locally in the City of Maryville by inserting the following at the end:

"Exception 3: Unenclosed pavilions and similar structures with a floor area of one thousand square feet or less and not served with water and sewer services shall not be required to provide public toilet facilities or other plumbing fixtures. For the purpose of this section guards as described in Section 1015, whether said guards are required or not by this code, shall not be considered to enclose the structure."

(22) Appendix B: Board of Appeals. Is hereby amended locally in the City of Maryville by changing the title from "Board of Appeals" to "Construction Board of Adjustments and Appeals." Every occurrence of "Board of Appeals" in appendix B and its subsections shall be changed to "Construction Board of Adjustments and Appeals."

(23) Appendix B: Section 8101.2 Membership of board. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"The Construction Board of Adjustments and Appeals shall consist of seven (7) persons appointed by the chief appointing authority for four year terms and shall serve staggered and overlapping terms. The

Building Official shall be an ex officio member of said board but shall have no vote on any matter before the board."

(24) Appendix B: Section 8101.2.2 Qualifications. Is hereby amended locally in the City of Maryville by deleting the word "five" and replacing it with the word "seven" in the first sentence. Appendix B Section 8101.2.2 is also amended locally by inserting "or as determined by the Building Official" after the word "disciplines."

(25) Appendix B: Section B 101.3.3 Postponed Hearing. Is hereby amended locally in the City of Maryville by deleting the word "five" and replacing it with the word "seven."

(26) Appendix B: Section 8101.4 Board decision. Is hereby amended locally in the City of Maryville by inserting the word "majority" after the word "concurring" and deleting "of two-thirds of its members." (1999 Code, § 12-102)

12-103. Available in recorder's office. The Council of the City of Maryville hereby declares that one (1) copy of the aforesaid code and revisions, as modified, has been filed with the recorder of the city for a period of fifteen (15) days prior to the passage of this chapter, will remain on file as long as this chapter is in effect, and that all public hearing and notice requirements in *Tennessee Code Annotated*, §§ 6-54-501, *et seq*., have been, or will be, met by the time of the final passage of this chapter. (1999 Code, § 12-103)

12-104. Violations and penalty. Any person, firm, corporation, tenant, occupant or agent who shall violate a provision of this code or fail to comply therewith, or with any of the requirements thereof, or cause such action to be taken in violation of the provisions of this code adopted by reference or locally adopted as modified shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation is committed or continued. Upon being found guilty of such violation, such person shall be punished according to the general penalty clause of the City of Maryville or through injunctive remedies in state or federal court as appropriate. In the event court action is taken, the city shall be entitled to recover from any person adjudicated to have violated this chapter the city's reasonable attorney fees and litigation costs incurred in bringing the action(s) to enforce the provisions of this chapter.

Additionally, violators may, in the discretion of the city, be subject to fines and penalties to be imposed by the administrative hearing officer pursuant to *Tennessee Code Annotated*, §§ 6-54-1001, *et seq*., as adopted locally in the city code. (1999 Code, § 12-104)

CHAPTER 2

PLUMBING CODE[1]

SECTION

12-201. Plumbing code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-510, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the municipality, when such plumbing is, or is to be, connected with the Maryville water or sewerage system, the *International Plumbing Code*,[2] 2018 edition, and subsequent modifications thereto, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code except as particularly stated otherwise in this chapter, and is hereinafter referred to as the "plumbing code."

The city does not incorporate by reference any changes or amendments adopted by the agency or association that promulgates the plumbing code unless such changes or amendments are subsequently expressly adopted by ordinance of the city. (1999 Code, § 12-201)

12-202. Local modifications. The following sections and appendices of the *International Plumbing Code*, 2018 edition, are hereby amended in the City of Maryville, as hereinafter provided:

(1) Chapter 1, Scope and Administration: Section 101.1 Title. Is hereby amended locally in the City of Maryville by inserting "City of Maryville" as the name of the jurisdiction.

(2) Chapter 1, Scope and Administration: 101.2 Scope. Is hereby locally amended in the City of Maryville by deleting the third and fourth sentences, and at the end of the first paragraph inserting:

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

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

"The provisions of the International Plumbing Code 2018 Edition shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The provisions of private sewage disposal systems shall comply with the regulations of the Blount County Environmental Health Department. Provisions in the appendices shall not apply unless specifically adopted. The following Appendices are specifically included in the adoption. All others are excluded.

- Appendix B - Rates of Rainfall for Various Cities
- Appendix C - Vacuum Drainage System
- Appendix D - Degree Day and Design Temperatures
- Appendix E - Sizing of Water Piping System
- Appendix F - Structural Safety

Exception: Detached one- and two- family dwellings and multiple single family dwellings (townhouse) not more than three stories high with separate means of egress and their accessory structures shall comply with the *International Residential Code*."

(3) Chapter 1, Scope and Administration: Section 101 General. Is hereby locally amended in the City of Maryville by adding the following subsection:

"101.5 Conflicts with other City of Maryville Rules, Regulations, Rates, and Policies. When any provisions of this code conflicts with provisions addressed in the City of Maryville Water and Sewer Department Rules and Regulations, the City of Maryville Title 18 Chapter 10 Stormwater Discharges Ordinance, or the City of Maryville Land Development and Public Works Standards Part 1 - Drainage and Construction Standards the most restrictive provision shall be enforced. If no determination can be made by the Building Official about which is the 'most restrictive' then this code shall not apply."

(4) Chapter 1, Scope and Administration: Section 103.1 Creation of enforcement agency. Is hereby amended locally in the City of Maryville by deleting Section 103.1 in its entirety and replacing with the following:

"103.1 Building Official. The provisions of this code shall be enforced by the Building Official."

(5) Chapter 1, Scope and Administration: Section 106.5.3 Expiration. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"106.5.3 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 60 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 30 days after the time the work is commenced. Work authorized by that permit shall be completed within the time frame set forth in the building permit associated with the same

construction project, or within one year if a building permit has not been issued for the construction project. Extensions of time may be granted by the Building Official; however, the extension must be requested in writing and justifiable cause demonstrated. The Building Official is authorized to grant, in writing, one or more extensions of time. Each extension shall be for a period of time not to exceed 180 days. A fee of fifty percent (50%) of the permit fee of the original permit shall be charged to cover administrative expenses for each extension granted."

(6) Chapter 1, Scope and Administration: Section 106.6 Fee Schedule. Is hereby amended by deleting the section and its subsections in their entirety and replacing with:

"Section [A] 106.6 Fee schedule. Fees shall be as adopted by the City of Maryville, Tennessee. Refund of fees shall be subject to fee refund policy as established by the Building Official."

(7) Chapter 1, Scope and Administration: Section 107 Inspection and Testing. Is hereby amended by adding the following section:

"107.8 Building Occupancy. A new building shall not be occupied or a change made in occupancy or the nature or the use of a building or part of a building until after the Building Official has issued a Certificate of Occupancy. Said certificate shall not be issued until the following have been tested and or approved by the appropriate agency or department.

- Fire protection systems
- Mechanical Systems
- Utility systems
- Site work beyond the confines of the building
- General building construction requirements"

(8) Chapter 1, Scope and Administration: Section 108, Violations. Is hereby locally amended to add the following section:

"108.8 Cesspool, septic tanks, etc. It is mandatory that every cesspool, septic tank, and seepage pit, which has been abandoned or has been discontinued otherwise from further use or to which no waste or soil pipe from a plumbing fixture is connected, shall have the sewage removed therefrom and be completely filled with earth, sand, gravel, concrete, or other approved material. The top cover or arch over the cesspool, septic tank, or seepage pit shall be removed before filling and the filling shall not extend above the top of the vertical portions of the sidewalls or above the level of any outlet pipe until inspected and approved by the City of Maryville Water and Sewer Department Utility Construction Inspector, following which the cesspool septic tank or seepage pit shall be filled to the level of the top of the ground."

(9) Chapter 1, Scope and Administration: Section 108.4, Violation and Penalties. Is hereby locally amended in the City of Maryville by deleting the section in its entirety and insert in its place:

"108.4, Violation and Penalties. Any person, firm, corporation, tenant, Owner or agent who shall violate a provision of this code, or fail to comply therewith or with any of the requirements thereof, or who shall erect, construct, alter, demolish, or move any structure, or has erected, constructed, altered, repaired, moved, or demolished a building or structure in violation of a detailed statement or drawing submitted and permitted thereunder, or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law and the enforcement and penalty clause of this Ordinance."

(10) Chapter 1, Scope and Administration: Section 109 Means of Appeal. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"Section 109 Construction Board of Adjustments and Appeals 109.1 Appeals relative to the application of this code shall be as established and regulated by the International Building Code as locally adopted and amended in the City of Maryville."

(11) Chapter 3, General Regulations: Section 303.3 Plastic Pipe, Fittings, and Components. Is hereby amended locally in the City of Maryville by adding the following at the end of the existing paragraph:

"The use of coextruded PVC pipe in outside building sanitary sewers is prohibited. Its use in storm drains and storm sewers shall be at the discretion of the local authority."

(12) Chapter 4, Fixtures, Faucets and Fixture Fittings. Section 403.3, Required public toilet facilities. Is hereby amended locally in the City of Maryville by inserting the following at the end of the exception:

"Unenclosed pavilions and similar structures with a floor area of one thousand square feet or less and not served with water and sewer services shall not be required to provide public toilet facilities or other plumbing fixtures. For the purpose of this section guards, whether required or not, shall not be considered to enclose the structure."

(13) Chapter 6, Water Supply and Distribution: Section 603.2 Separation of Water Service and Building Sewer: Exception 1. Is hereby amended locally in the City of Maryville by replacing "minimum of 12 inches" with "minimum of 18 inches."

(14) Chapter 7, Sanitary drainage, Section 701.2, Sewer required. Is hereby amended locally in the City of Maryville by deleting "International Private Sewage Disposal Code" and replace with the following: "regulations of the Blount County Environmental Health Department."

(15) Chapter 7, Sanitary Drainage: Section 701.3 Separate sewer connection. Is hereby amended locally in the City of Maryville by adding the following as the last sentence to the paragraph:

"A common building sewer line must be a minimum of six (6) inches diameter."

(16) Chapter 7, Sanitary Drainage: Tables 702.3 and 702.4 are hereby amended locally in the City of Maryville by deleting in their entirety and the following added in their place:

"702.3 Approved Material: Building Sewer Pipe and Pipe Fittings. Only the following materials will be accepted in the installation of building sewer pipes and fittings:

1. Cast iron soil pipe and fittings,
2. Brass fittings,
3. Bronze fittings,
4. Type 1 PVC pipe and fittings, minimum schedule 40 (ASTM 0-2665),
5. ASTM D - 3034 PVC pipe encapsulated with six (6) inches of bedding material (Size no. 7 or 67 crushed stone) on the top, both sides, and the bottom of the pipe,
6. Ductile iron pipe and fittings."

(17) Chapter 7, Sanitary Drainage: Section 702 Materials. Is hereby amended locally in the City of Maryville by adding the following section:

"702. 7 Co-Mingling. Co-mingling of materials in the building sewer shall be accomplished only through the use of neoprene adapters with stainless steel bands."

(18) Chapter 7, Sanitary Drainage: Section 704.1 Drainage piping installation. Is hereby amended locally in the City of Maryville by inserting after Table 704.1 the following:

"Notwithstanding the above, four (4) inch nominal diameter building sewer drainage piping shall have a minimum fall of 1/4 inch per foot, and six (6) inch nominal diameter building sewer drainage piping shall have a minimum fall of 1/8 inch per foot."

(19) Chapter 7, Sanitary Drainage: Section 705.3 Asbestos cement. Is hereby amended locally in the City of Maryville by deleting the section in its entirety and inserting the following in its place:

"705.3 Asbestos cement. Asbestos - cement pipe and fittings are prohibited."

(20) Chapter 7, Sanitary Drainage: Section 705.6 Concrete joints. Is hereby amended locally in the City of Maryville by deleting the section in its entirety and inserting the following in its place:

"705.6 Concrete joints. Concrete pipe and fittings are prohibited."

(21) Chapter 7, Sanitary Drainage: Section 706.1 Connections and changes in directions. Is hereby amended locally in the City of Maryville by inserting at the end:

"Bends greater than 45 degrees shall be prohibited in the building sewer."

(22) Chapter 7, Sanitary Drainage: Section 708.1.3 Building drain and building sewer junction. Is hereby amended locally in the City of Maryville by deleting the section in its entirety and inserting the following in its place:

"708.1.3 Building drain and building sewer junction. The first exterior cleanout shall be located a minimum of three (3) feet but no more than five (5) feet from the exterior wall of the building without prior approval of the plumbing official. The use of two-way cleanouts is prohibited."

(23) Chapter 7, Sanitary Drainage: Section 708.1.4 Changes of direction. Is hereby amended locally in the City of Maryville by deleting the section in its entirety and inserting the following in its place:

"708.1.4 Changes of direction. Cleanouts shall be installed at each change of direction of the building sewer which is greater than 90 degrees. (Please note that this change may be accomplished with two or more fittings. Example - Two 45 degree bends and a 22 1/2 degree bend installed in succession shall require a cleanout be installed between them regardless length of separation.)"

(24) Chapter 7, Sanitary Drainage: Section 708.1.5 Minimum Size. Is hereby amended locally in the City of Maryville by deleting the section in its entirety and inserting the following in its place:

"708.1.5 Minimum size. Building sewer cleanouts shall be the same nominal size as the pipe they serve."

(25) Chapter 7, Sanitary Drainage: Section 708.1.9 Clearances. Is hereby amended locally in the City of Maryville by deleting the section in its entirety and inserting the following in its place:

"708.1.9 Clearances. All building sewer cleanouts shall be provided with clearance of not less than 36 inches (914 mm) for rodding."

(26) Chapter 7, Sanitary Drainage: Section 708.2 Cleanout plugs. Is hereby amended locally in the City of Maryville by deleting the sentences:

"Plugs shall have raised square or countersunk heads. Countersunk heads shall be installed where raised heads are a trip hazard."

and replacing with:

"Cleanout plugs shall have countersunk heads or be of the recessed slot type only."

(27) Chapter 7, Sanitary Drainage: Section 708.3.2 Building sewers. Is hereby amended locally in the City of Maryville by deleting "100 feet" in the first sentence and replacing with "80 feet" and deleting "400 feet (122 m) apart." in the last sentence and replacing with "350 feet (106.7 m) apart." at the end of the second sentence. (1999 Code, § 12-202, modified)

12-203. Available in recorder's office. The Council of the City of Maryville hereby declares that one (1) copy of the aforesaid code and revisions, as modified, has been filed with the recorder of the city for a period of fifteen (15) days prior to the passage of this chapter, will remain on file for as long as this chapter is in effect, and that all notice and public hearing requirements in *Tennessee Code Annotated*, §§ 6-54-501, *et seq*., have been, or will be, met by the time of the final passage of this chapter. (1999 Code, § 12-203)

12-204. Violations and penalty. Any person, firm, corporation, tenant, occupant or agent who shall violate a provision of this code or fail to comply therewith or with any of the requirements thereof, or cause such action to be taken in violation of the provisions of this code adopted by reference or locally adopted as modified shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation is committed or continued. Upon being found guilty of such violation, such person shall be punished according to the general penalty clause of the City of Maryville or through injunctive remedies in state or federal court as appropriate.

In the event court action is taken, the city shall be entitled to recover from any person adjudicated to have violated this chapter the city's reasonable attorney fees and litigation costs incurred in bringing the action(s) to enforce the provisions of this chapter. Additionally, violators may, in the discretion of the city, be subject to fines and penalties to be imposed by the administrative hearing officer pursuant to *Tennessee Code Annotated*, §§ 6-54-1001, *et seq*., as adopted locally in the city code. (1999 Code, § 12-204)

CHAPTER 3

ELECTRICAL CODE[1]

SECTION

12-301. Electrical code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, § 6-54-502, and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, and for other purposes, the *National Electric Code*,[2] 2017 edition, as hereinafter modified, and as prepared by the National Fire Protection Association, is hereby referred to as the "electrical code" and is adopted by the City of Maryville and incorporated by reference as the ordinances of the city. (1999 Code, § 12-301, modified)

12-302. Available in recorder's office. The Council of the City of Maryville hereby declares that one (1) copy of the aforesaid code has been filed with the recorder of the city for a period of fifteen (15) days prior to the passage of this chapter and will remain on file while this chapter is in effect. (1999 Code, § 12-302)

12-303. Permit required for doing electrical work. No electrical work shall be done within this municipality until a permit therefor has been issued by the municipality. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1999 Code, § 12-303)

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[1]Municipal code references
Fire protection, fireworks and explosives: title 7.

[2]Copies of this code (and any amendments) may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

12-304. Modifications. Local modifications.

(1) Article 110.24(B) Available Fault Current. Modifications. Is locally amended by deleting it in its entirety with no replacement.

(2) Article 210.12(A). Arc-Fault Circuit-Interrupter Protection. Dwelling Units. Shall be locally amended by numbering the exception at the end as:

"Exception 1" and adding the following after the exception:

"Exception 2. Notwithstanding the above, Arc Fault Circuit Interrupters (AFCIs) shall be optional for bathrooms, laundry areas, garages, unfinished basements, which are portions or areas of the basement not intended as habitable rooms and limited to storage, work or similar area, and for branch circuits dedicated to supplying refrigeration equipment. Should there be any conflict within this section as to application, this exception shall prevail."

(3) Article 210.19(A)(3). Household Ranges and Cooking Appliances. Is amended locally by deleting in its entirety and replacing it with the following:

"Section 210.19(A)(3) Household Ranges and Cooking Appliances. All range taps shall be on separate wired circuits."

(4) Article 210.52(A)(2). Wall Space. Shall be locally amended by adding the following at the end:

"(4) Receptacles shall not be required in the wall space behind doors which may be opened fully against a wall surface. Wall space measurement shall begin at the edge of the door when fully opened."

(5) Article 210.52(C)(2). Island Countertop Spaces. Shall be locally amended by deleting in its entirety and replacing with:

"(2) Island Countertop Spaces. The installation of receptacles for island counter spaces below the countertop shall be optional."

(6) Article 210.52(C)(3). Peninsular Countertop Spaces. Shall be locally amended by deleting in its entirety and replacing with:

"(3) Peninsular Countertop Spaces. The installation of receptacles for peninsular counter spaces below the countertop shall be optional."

(7) Article 334.15(C). In Unfinished Basements and Crawlspaces. Shall be locally amended by adding the following at the end:

"Exception: Non-metallic-Sheathed Cable shall not be required to be run through bored holes in unfinished basements and crawlspaces with less than four (4) feet and six (6) inches of clearance."

(8) Article 410.10. Luminaires in Specific Locations. Shall be locally amended by adding the following at the end:

"(D) In Crawlspaces. Light fixtures in crawlspaces shall have guarded covers." (1999 Code, § 12-308)

12-305. Enforcement. It shall be the duty of the building official to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical

equipment and wiring, etc., as are necessary to ensure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1999 Code, § 12-305)

12-306. Fee schedule. A schedule of fees for electrical work done by permit shall be adopted by the city council, and all changes and amendments thereto may be made by resolution or ordinance. (1999 Code, § 12-306)

12-307. Additional electrical requirements. (1) Wiring methods requirements. The wiring methods for all structures shall be installed in an approved raceway or shall be metallic-sheathed cable, except that non-metallic sheathed cables, including NM, NMB, NMC, NMS, SE and UF shall be permitted to be installed in apartment buildings not more than three (3) stories above grade plane in height, detached one (1) and two (2) family dwellings and multiple single-family dwellings (townhouses) not more than three (3) stories above grade plane in height with a separate means of egress and their accessory structures. Renovations and repairs of existing buildings shall comply with this section to the extent judged practical by the building official. In instances where there is conflict between the electrical code and this section, this section shall govern.

(2) Service equipment disconnecting means. Service equipment shall have only one (1) means of disconnecting services of two hundred twenty-five (225) amperes or less.

(3) Smoke alarms. Except as provided in *Tennessee Code Annotated*, § 68-120-111(b), no one (1) and two (2) family dwellings shall be approved for connection of new electric service unless such dwelling is equipped with at least one (1) smoke alarm which, when activated, initiates an alarm audible in every sleeping room. The smoke alarm or alarms shall be listed in accordance with the 2018 *International Residential Code*, published by the International Code Council, Inc.; and in accordance with the manufacturer's directions.

(4) Used manufactured homes. Used manufactured homes that are being considered for electrical service shall have an electrical safety inspection by an electrician duly licensed in Tennessee. The electrical safety inspection shall be performed and a written statement provided to the building official indicating compliance with the following electrical safety inspection list prior to the request for electrical service inspection by the City of Maryville Electrical Inspector. If the used manufactured home is not in compliance with the electrical safety inspection list, the electrician shall obtain the appropriate permits and inspections, and perform the necessary corrective work to obtain compliance. The list of items to be inspected by the electrician of the said electrical safety inspection shall, at a minimum, be the following:

ELECTRICAL SAFETY INSPECTION LIST

(a) Manufactured homes shall have listed, enclosed-type service entrance equipment located inside the manufactured home, with proper rated overcurrent protection for each branch circuit. Overcurrent protection for circuits of twenty (20) amperes or less may be either circuit breakers or plug fuses and fuse holders of type "S," and shall be of the time-delay type. The manufactured home disconnecting means located inside shall be fed from an outside location with a feeder from the main service entrance for such manufactured home. If the supply or feeder from the main service to the disconnecting means located inside does not have a grounding conductor as required by article 550(C) of the 2017 *National Electrical Code*, one (1) shall be installed.

(b) Inspection shall be both visual and mechanical; switch and receptacle plates and light fixtures will be removed to check conductor connections, insulation of splices, boxes, and general code requirements.

(c) The used manufactured home shall be equipped with at least one (1) smoke alarm which, when activated, initiates an alarm audible in every sleeping room. The smoke alarm or alarms shall be listed in accordance with the 2018 *International Residential Code*, published by the International Code Council, Inc., and in accordance with the manufacturer's directions. (1999 Code, § 12-307)

12-308. Violations and penalty. Any person, firm, corporation, tenant, occupant or agent who shall violate a provision of this code or fail to comply therewith or with any of the requirements thereof, or cause such action to be taken in violation of the provisions of this code adopted by reference or locally adopted as modified, shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation is committed or continued. Upon being found guilty of such violation, such person shall be punished according to the general penalty clause of the City of Maryville or through injunctive remedies in state or federal court as appropriate. In the event court action is taken, the city shall be entitled to recover from any person adjudicated to have violated this chapter, the city's reasonable attorney fees and litigation costs incurred in bringing the action(s) to enforce the provisions of this chapter.

Additionally, violators may, in the discretion of the city, be subject to fines and penalties to be imposed by the administrative hearing officer pursuant to *Tennessee Code Annotated*, §§ 6-54-1001, *et seq*., as adopted locally in the city code. (1999 Code, § 12-304)

CHAPTER 4

MECHANICAL CODE

SECTION

12-401. Mechanical code adopted. Pursuant to the authority granted by *Tennessee Code Annotated*, § 6-54-502, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in building construction, the *International Mechanical Code*,[1] 2018 edition, as prepared and maintained by the International Code Council, is hereby adopted and incorporated by reference as a part of this code except as otherwise specifically stated in this chapter. (1999 Code, § 12-401)

12-402. Local modifications. The following sections and appendices of the *International Mechanical Code*, 2018 edition, are hereby amended in the City of Maryville, as hereinafter provided:

(1) Chapter 1, Scope and Administration: Section 101.1 Title. Is hereby amended locally in the City of Maryville by inserting "City of Maryville" as the name of the jurisdiction.

(2) Chapter 1, Scope and Administration: Section 101.2 Scope. Is hereby amended locally in the City of Maryville by deleting the last sentence before the exception in its entirety without replacement.

(3) Chapter 1, Scope and Administration: Section 103.1 Department of Mechanical Inspection. Is hereby amended locally in the City of Maryville by deleting Section 103.1 in its entirety and replacing with the following:

"Section 103.1 Building Official. The provisions of this code shall be enforced by the Building Official."

(4) Chapter 1, Scope and Administration: Section 106.4.2 Validity. Is hereby amended locally in the City of Maryville by inserting the following at the beginning:

"A permit issued shall be construed to be a license to proceed with the work and shall not be construed as authority to violate, cancel, alter, or set aside any of the provisions of this code, nor shall such issuance of a

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

permit prevent the Building Official from thereafter requiring a correction of errors in plans of in construction, or of violation of this code. The Building Official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis on incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code."

(5) Chapter 1, Scope and Administration: Section 106.4.3 Expiration. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"106.4.3. Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 60 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 30 days after the time the work is commenced. Work authorized by that permit shall be completed within the time frame as set forth in the building permit for the same project or one (1) year for projects that do not require a building permit."

(6) Chapter 1, Scope and Administration: Section 106.4.4 Extensions. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"Extensions of time may be granted by the Building Official; however, the extension must be requested in writing and justifiable cause demonstrated. The Building Official is authorized to grant, in writing, one or more extensions of time. Each extension shall be for a period of time not to exceed 180 days. A fee of fifty percent (50%) of the permit fee of the original permit shall he charged to cover administrative expenses for each extension granted."

(7) Chapter 1, Scope and Administration: Section 106.4.5 Suspension or revocation of permit. Is hereby amended locally in the City of Maryville by inserting at the end the following:

"After a permit has become void, if the Owner wishes to commence construction to complete the structure, equipment or system for which the original permit was issued, the Owner shall reapply and pay for a new permit for the completion of the construction."

(8) Chapter 1, Scope and Administration: Section 106.4.8 Posting of Permit. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"106.4.8 Placement of Permit. The permit or copy shall be kept on the site of the work or be made available to inspectors upon request until the completion of the project."

(9) Chapter 1, Scope and Administration: Section 106.5.2 Fee Schedule. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"106.5.2 Fee schedule. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid."

(10) Chapter 1, Scope and Administration: Section 106.5.3 Fee refunds. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"106.5.3 Fee refunds. The Building Official is authorized to establish a refund policy."

(11) Chapter 1, Scope and Administration: Section 107.2.2 Inspection request. Is hereby amended locally in the City of Maryville by inserting the following at the end:

"No inspections shall be performed on any site or portion thereof where there is an unsafe condition or a violation of the occupational safety and health standards for the construction industry promulgated by the Occupational Safety and Health Administration (OSHA)."

(12) Chapter 1, Scope and Administration: Section 108.4, Violation penalties. Is hereby locally amended in the City of Maryville by deleting the section in its entirety and insert in its place:

"Any person, firm, corporation, tenant, Owner or agent who shall violate a provision of this code, or fail to comply therewith or with any of the requirements thereof, or who shall erect, construct, alter, demolish, or move any structure, or has erected, constructed, altered, repaired, moved, or demolished a building or structure in violation of a detailed statement or drawing submitted and permitted thereunder, or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law."

(13) Chapter 1, Scope and Administration: Section 108.5, Stop work orders. Is hereby locally amended in the City of Maryville by deleting the last sentence and replacing with:

"Any person who shall continue any work after having been served with a stop work order, except that such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as described by law."

(14) Chapter 1, Scope and Administration: Section 109 Means of appeals. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"Section 109 Means of appeals. Appeals relative to the application of the this code shall be as established and regulated by the International Building Code as locally adopted and amended in the City of Maryville." (1999 Code, § 12-402, modified)

12-403. Available in recorder's office. The Council of the City of Maryville hereby declares that one (1) copy of the aforesaid code and revisions, as modified, has been filed with the recorder of the city for a period of fifteen (15) days prior to the passage of this chapter, will remain on file as long as this chapter is in effect and that all public hearing and notice requirements in *Tennessee Code Annotated*, §§ 6-54-501, *et seq*., have been or will be met by the time of the final passage of this chapter. (1999 Code, § 12-403)

12-404. Violations and penalty. Any person, firm, corporation, tenant, occupant or agent who shall violate a provision of this code, or fail to comply therewith or with any of the requirements thereof, or cause such action to be taken in violation of the provisions of this code adopted by reference or locally adopted as modified shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation is committed or continued. Upon being found guilty of such violation, such person shall be punished according to the general penalty clause of the City of Maryville or through injunctive remedies in state or federal court as appropriate. In the event court action is taken, the city shall be entitled to recover from any person adjudicated to have violated this chapter the city's reasonable attorney fees and litigation costs incurred in bringing the action(s) to enforce the provisions of this chapter.

Additionally, violators may in the discretion of the city be subject to fines and penalties to be imposed by the administrative hearing officer pursuant to *Tennessee Code Annotated*, §§ 6-54-1001, *et seq*., as adopted locally in the city code. (1999 Code, § 12-404)

CHAPTER 5

ENERGY CONSERVATION CODE[1]

SECTION

12-501. Energy conservation code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-510, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in building construction, the *International Energy Conservation Code*,[2] 2018 edition, as prepared and maintained by the International Code Council, is hereby adopted and incorporated by reference as a part of this code except as otherwise specifically stated in this chapter, and is hereinafter referred to as the "energy code."

The city does not incorporate by reference any changes or amendments adopted by the agency or association that promulgates the energy code unless such changes or amendments are subsequently expressly adopted by ordinance by the city. (1999 Code, § 12-501)

12-502. Local modifications. The following sections and appendices of the *International Energy Conservation Code*, 2018 edition, are hereby amended in the City of Maryville, as hereinafter provided:

(1) Chapter 1 [CE], Scope and Administration: Section C101.1 Title. Is hereby locally amended in the City of Maryville by inserting "City of Maryville" in the brackets for the name of jurisdiction.

(2) Chapter 1 [CE], Scope and Administration: Section C101.5 Compliance. Is hereby locally amended in the City of Maryville by deleting the first sentence in its entirety and replacing it with "Residential buildings shall meet the provisions of IECC - Residential Provisions, or Chapter 11, Energy

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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) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

Efficiency, of the International Residential Code for One- and Two-Family Dwellings 2018 Edition."

(3) Chapter 1 [CE], Scope and Administration: Section C108.4 Failure to comply. Is hereby locally amended in the City of Maryville by deleting "shall be liable to a fine as set by the applicable governing authority" and insert "subject to penalties as prescribed by law" in its place.

(4) Chapter 1 [CE], Scope and Administration: Section C109 Board of Appeals. Is hereby locally amended in the City of Maryville by deleting in its entirety, including its subsections, and the following substituted in lieu thereof:

"Section C109 Construction Board of Adjustments and Appeals C109.1 Appeals relative to the application of this code shall be as established and regulated by the International Building Code as locally adopted and amended in the City of Maryville."

(5) Chapter 1 [RE], Scope and Administration: Section R101.1 Title. Is hereby locally amended in the City of Maryville by inserting "City of Maryville" in the brackets for the name of jurisdiction.

(6) Chapter 1 [RE], Scope and Administration: Section R101.5 Compliance. Is hereby locally amended in the City of Maryville by deleting the first sentence in its entirety and replacing it with "Residential buildings shall meet the provisions of IECC - Residential Provisions, or Chapter 11, Energy Efficiency, of the International Residential Code for One- and Two-Family Dwellings, 2018 Edition."

(7) Chapter 1 [RE], Scope and Administration: Section R108.4 Failure to comply. Is hereby locally amended in the City of Maryville by deleting "shall be liable to a fine as set by the applicable governing authority" and insert "subject to penalties as prescribed by law" in its place.

(8) Chapter 1 [RE], Scope and Administration: Section R109 Board of Appeals. Is hereby locally amended in the City of Maryville by deleting in its entirety, including its subsections, and the following substituted in lieu thereof:

"Section R109 Construction Board of Adjustments and Appeals C109.1 Appeals relative to the application of this code shall be as established and regulated by the International Building Code as locally adopted and amended in the City of Maryville."

(9) Chapter 4 [RE], Residential Energy Efficiency: Section R402.2.10, Slabon-grade. Is hereby amended by deleting the last sentence and replacing with:

"Due to local termite infestation vulnerability conditions, the slabon-grade floor perimeter insulation required by this section shall be optional in the City of Maryville. Should said insulation be provided, the installation shall comply with this section." (1999 Code, § 12-502)

12-503. Available in recorder's office. The Council of the City of Maryville hereby declares that one (1) copy of the aforesaid code and revisions, as modified, has been filed with the recorder of the city for a period of fifteen

(15) days prior to the passage of this chapter, will remain on file as long as this chapter is in effect and that all public hearing and notice requirements in *Tennessee Code Annotated*, §§ 6-54-501, *et seq*., have been or will be met by the time of the final passage of this chapter. (1999 Code, § 12-503)

12-504. Violations and penalty. Any person, firm, corporation, tenant, occupant or agent who shall violate a provision of this code or fail to comply therewith or with any of the requirements thereof or cause such action to be taken in violation of the provisions of this code adopted by reference or locally adopted as modified shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation is committed or continued. Upon being found guilty of such violation, such person shall be punished according to the general penalty clause of the City of Maryville or through injunctive remedies in state or federal court as appropriate. In the event court action is taken, the city shall be entitled to recover from any person adjudicated to have violated this chapter the city's reasonable attorney fees and litigation costs incurred in bringing the action(s) to enforce the provisions of this chapter.

Additionally, violators may, in the discretion of the city, be subject to fines and penalties to be imposed by the administrative hearing officer pursuant to *Tennessee Code Annotated*,§§ 6-54-1001, *et seq*., as adopted locally by the city. (1999 Code, § 12-504)

CHAPTER 6

RESIDENTIAL CODE

SECTION

12-601. Residential code for one- and two-family dwellings adopted. Pursuant to authority granted by the *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-510, and for the purpose of regulating the construction, alteration, repair, use and occupancy, location, maintenance, removal, and demolition of every building or structure, or any appurtenance connected or attached to any building or structure, the *International Residential Code for One- and Two-Family Dwellings*,[1] 2018 edition, chapters 1-23, 25-33, 44 and appendices E, H, and J thereto, with the modifications thereto hereinafter set forth, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code except as otherwise specifically stated in this chapter, and is hereinafter referred to as the "residential code." (1999 Code, § 12-1101)

12-602. Local modifications. The following sections and appendices of the *International Residential Code for One- and Two-Family Dwellings*, 2018 edition, are hereby amended in the City of Maryville, as hereinafter provided:

(1) Chapter 1, Scope and Administration: Section R101.1 Title. Is hereby amended locally in the City of Maryville by inserting "City of Maryville" as the name of the jurisdiction.

(2) Chapter 1, Scope and Administration: Section R102.5 Appendices. Is hereby amended locally in the City of Maryville by inserting at the end of the section the following:

"The following Appendices are specifically included in the adoption. All others are excluded.

- Appendix E Manufactured Housing Used As Dwellings
- Appendix H Patio Covers
- Appendix J Existing Buildings and Structures"

(3) Chapter 1, Scope and Administration: Section R103.1 Creation of enforcement agency. Is hereby amended locally in the City of Maryville by deleting Section R103.1 in its entirety and replaced with the following:

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

"Section R103.1 Building Official. The provisions of this code shall be enforced by the Building Official."

(4) Chapter 1, Scope and Administration: Section R104.10.1 Flood hazard areas. Is hereby amended locally in the City of Maryville by deleting Section R104.10.1 in its entirety.

(5) Chapter 1, Scope and Administration: Section R105.2 Work exempt from permit. Is hereby amended locally in the City of Maryville by deleting number 1 in its entirety and replaced with:

"1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet if the structure has a permanent foundation or does not exceed 400 square feet if the structure is a pre-manufactured building without a permanent foundation."

(6) Chapter 1, Scope and Administration: Section R105.4 Validity of permit. Is hereby amended locally in the City of Maryville by inserting the following at the beginning:

"A permit issued shall be construed to be a license to proceed with the work and shall not be construed as authority to violate, cancel, alter, or set aside any of the provisions of this code, nor shall such issuance of a permit prevent the Building Official from thereafter requiring a correction of errors in plans of in construction, or of violation of this code. The Building Official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis on incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code."

(7) Chapter 1, Scope and Administration: Section R105.5. Expiration. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"R105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 60 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 30 days after the time the work is commenced. Work authorized by that permit shall be completed within the time frame set forth in the following:

For Building Permits with Construction Valuation in the amount of:

$0.01 - $250,000 - twelve (12) months;

$250,000.01 - $500,000.00 - eighteen (18) months;

$500,000.01 - $1,000,000.00 - twenty four (24) months;

$1,000,000.01 and up - thirty-six (36) months

Extensions of time may be granted by the Building Official; however, the extension must be requested in writing and justifiable cause demonstrated. The Building Official is authorized to grant, in writing, one or more extensions of time. Each extension shall be for a period of

time not to exceed 180 days. A fee of fifty percent (50%) of the permit fee of the original permit shall be charged to cover administrative expenses for each extension granted."

(8) Chapter 1, Scope and Administration: Section R105.6 Suspension or revocation. Is hereby amended locally in the City of Maryville by inserting at the end the following:

"After a permit has become void, if the Owner wishes to commence construction to complete the structure for which the original permit was issued, the Owner shall reapply for a new building permit for the completion of the construction. When a new building permit is issued, the permit fee for the completion of the construction shall be equal to the permit fee that was paid when the original permit was issued."

(9) Chapter 1, Scope and Administration: Section R105.7 Placement of Permit. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"R105. 7 Placement of Permit. The building permit or copy shall be kept on the site of the work or be made available to inspectors upon request until the completion of the project."

(10) Chapter 1, Scope and Administration: Section R109.3 Inspection request. Is hereby amended locally in the City of Maryville by inserting the following at the end:

"No inspections shall be performed on any site or portion thereof where there is an unsafe condition or a violation of the occupational safety and health standards for the construction industry promulgated by the Occupational Safety and Health Administration (OSHA)."

(11) Chapter 1, Scope and Administration: Section R110.1 Use and occupancy. Is hereby amended locally in the City of Maryville by inserting the following at the end of the paragraph and before the exception:

"Said certificate shall not be issued until the following have been tested and approved by the appropriate agency or department:

- Fire protection systems
- Mechanical systems
- Utility systems
- Site work beyond the confines of the building
- General building construction requirements"

(12) Chapter 1, Scope and Administration: Section R112 Board of Appeals. Is hereby amended locally in the City of Maryville by deleting in its entirety and the following substituted in lieu thereof:

"Section R112 Construction Board of Adjustments and Appeals R112.1 Appeals relative to the application of this code shall be as established and regulated by the International Building Code as locally adopted and amended in the City of Maryville."

(13) Chapter 1, Scope and Administration: Section 113.4, Violation and Penalties. Is hereby locally amended in the City of Maryville by deleting the section in its entirety and the following substituted in lieu thereof:

"Any person, firm, corporation, tenant, Owner or agent who shall violate a provision of this code, or fail to comply therewith or with any of the requirements thereof, or who shall erect, construct, alter, demolish, or move any structure, or has erected, constructed, altered, repaired, moved, or demolished a building or structure in violation of a detailed statement or drawing submitted and permitted thereunder, or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law."

(14) Chapter 3, Building Planning: Section R301.2 Climatic and geographic design criteria. Is hereby amended locally in the City of Maryville by inserting the following information in Table R301.2 (1):

"Table R301.2 (1) Climatic and Geographic Design Criteria.

Insert "10 PSF" in the table for Ground Snow Load.
Insert "115" in the table for Wind Speed.
Insert "No" in the table for Topographic Effects.
Insert "No" in the table for Special Wind Region.
Insert "No" in the table for Windborne Debris Zone.
Insert "C" in the table for Seismic Design Category.
Insert "Severe" in the table for Weathering.
Insert "12 inches" in the table for Frost Line Depth.
Insert "Moderate to heavy" in the table for Termite.
Insert "19 degrees Fahrenheit" in the table for Winter Design Temp.
Insert "No" in the table for Ice Barrier Underlayment Required.
Insert in the table for Flood Hazards:

"(a) "December 7, 1971 is the date for City of Maryville's entry into the National Flood Insurance Program; (b) September 19, 2007 is the date of the Flood Insurance Study, and, (c) the effective FIRM panels are 0119, 0120, 0137, 0138, 0139, 0143, 0232, 0234, 0235, 0251, 0252, 0253, 0254, 0255, and 0275 dated September 19, 2007"

Insert "210" in the table for Air Freezing Index.
Insert "59.4" in the table for Mean Annual Temp.
Insert "980 feet" in the table for Elevation.
Insert "35° North" in the table for the Latitude.
Insert "1 go F" in the table for Winter Heating.
Insert "90°" in the table for Summer Cooling.
Insert "0.97" in the table for Altitude Correction Factor.
Insert "70° F (Heat)" in the table for Indoor Design Temperature.
Insert "75° F - 70° F" in the table for Design Temperature Cooling.
Insert "51° F in the table for Heating Temperature Difference.
Insert "15° - 20° F" in the table for Cooling Temperature Difference.
Insert "15 mph" in the table for Wind Velocity Heating.

Insert "7.5 mph" in the table for Wind Velocity Cooling.

Insert "74° F" in the table for Coincident Wet Bulb.

Insert "Medium" in the table for Daily Range.

Insert "70° db no visible condensation" in the table for Winter Humidity.

Insert "50% @ 75° db" in the table for Summer Humidity."

(15) Chapter 3, Building Planning: Section R301.2.2 Seismic provisions. Is hereby amended locally in the City of Maryville by deleting item 1, renumbering item 2 to item 1 and inserting "and townhouses" just after the word "dwellings" and at the end of the section inserting "All references to "townhouses in seismic design category C" in Chapters 6, 7 and 28 shall not apply in the City of Maryville."

(16) Chapter 3, Building Planning: Section R301.2.2.1 Determination of seismic design category. Is hereby amended locally in the City of Maryville by deleting the entire sentence and replacing with "Buildings shall be assigned a seismic design category in accordance with Table R301.2.2.1.1. For the purpose of determining the seismic design category for this code in the City of Maryville the value for S_{DS} in Table R301.2.2.1.1 shall be 0.4149."

(17) Chapter 3, Building Planning: Section R302.5.1 Opening protection. Is hereby amended locally in the City of Maryville by deleting the words ", equipped with a self-closing device" and insert a period after the word "doors."

(18) Chapter 3, Building Planning: Section R302.13 Fire protection of floors. Is hereby amended locally in the City of Maryville by deleting the words "or electric-powered" in exception 2. Additionally, the following shall be inserted at the end of exception 2:

"For the purpose of this section a crawl space or basement shall be considered intended for storage where any access opening for the space exceeds 36 inches by 48 inches in dimension."

(19) Chapter 3, Building Planning: Section R303.4 Mechanical ventilation. Is hereby amended locally in the City of Maryville by adding the word "(Optional)." in the section title after the word ventilation and by deleting the words "the dwelling unit shall be provided with whole-house mechanical ventilation" and replacing with the words "dwelling units provided with whole-house mechanical ventilation shall be."

(20) Chapter 3, Building Planning: Section R312.1.1 Where required. Is hereby amended locally in the City of Maryville by deleting the first sentence and replacing it with the following sentence:

"Guards shall be provided along open-sided walking surfaces or ground surfaces, mezzanines, retaining walls, stairways, ramps, landings and any other locations that are located more than 30 inches above the floor or grade below at any point within 36 inches horizontally to the edge of the open side."

(21) Chapter 3, Building Planning: Section R312.2 Window fall protection. Is hereby amended locally in the City of Maryville by deleting section R312.2 and its subsections in their entirety.

(22) Chapter 3, Building Planning: Section R313.1 Townhouse automatic fire sprinkler systems. Is hereby amended locally in the City of Maryville by deleting the entire section and the exception and replacing with "Automatic residential fire sprinkler systems shall not be required to be install in townhouses in the City of Maryville. Installation of automatic fire extinguishing systems in townhouses shall be optional. Nothing in this code shall be construed as requiring automatic fire extinguishing systems in townhouses. See Tennessee Code Annotated, § 68-120-101(a)(8)."

(23) Chapter 3, Building Planning: Section R313.1.1 Design and installation. Is hereby amended locally in the City of Maryville by inserting "Where installed" at the beginning before the word "automatic."

(24) Chapter 3, Building Planning: Section R313.2 One- and two-family dwellings automatic fire sprinkler systems. Is hereby amended locally in the City of Maryville by deleting the entire section and the exception and replacing with "Automatic residential fire sprinkler systems shall not be required to be install in one- and two-family dwellings in the City of Maryville. Installation of automatic fire extinguishing systems in townhouses shall be optional. Nothing in this code shall be construed as requiring automatic fire extinguishing systems in one- and two-family dwellings. See Tennessee Code Annotated, § 68-120-101(a)(8)."

(25) Chapter 3, Building Planning: Section R313.2.1 Design and installation. Is hereby amended locally in the City of Maryville by inserting "Where installed" at the beginning before the word "automatic."

(26) Chapter 3, Building Planning: Section R322.1.7 Protection of water supply and sanitary sewage. Is hereby amended locally in the City of Maryville by deleting "and Chapter 3 of the International Private Sewage Disposal Code" and inserting ", the requirements of the water and sewer service utility providers and the Blount County Health Department" in its place.

(27) Chapter 4, Foundations: Figure R403.1 (1) Concrete and Masonry Foundation Details. Is hereby amended locally in the City of Maryville by inserting a note in the figure as follows:

"The bottom of all foundations shall extend a minimum of 12 inches below finished grade."

(28) Chapter 5, Floors: Section R502.11.4 Truss Design Drawings. Is hereby amended locally in the City of Maryville by deleting "to the Building Official and approved prior to installation" and replacing it with "for review when required by the Building Official."

(29) Chapter 8, Roof-ceiling Construction: Section R802.10.1 Truss design drawings. Is hereby amended locally in the City of Maryville by deleting "to the Building Official and approved prior to installation" and replace it with "for review when required by the Building Official."

(30) Chapter 11 [RE]: Energy Efficiency: Table N1102.1.1 (R402.1.1) Insulation and Fenestration Requirements by Component.

Is hereby amended locally in the City of Maryville by: In the row for climate zone "4 except Marine," change Ceiling R-Value from "R49" to "R-38," and change the Wood Frame Wall R-Value from "20 or 13 + 5" to "13," and change the Mass Wall R-Value from "8/13" to "5/10."

(31) Chapter 11 [RE]: Energy Efficiency: Table N1102.1.3 (R402.1.3) Equivalent U-factors. Is hereby amended locally in the City of Maryville by:

In the row for climate zone "4 except Marine," change Ceiling U-Factor from "0.026" to "0.030," and change the Frame Wall U-Factor from "0.060" to "0.082," and change the Mass Wall U-Factor from "0.098" to "0.141."

(32) Chapter 11 [RE]: Energy Efficiency: Section N1102.2.6 (R402.2.6) Steel-frame ceilings, wall and floors. Is hereby amended locally in the City of Maryville by inserting "Table N1102.1.1," after the first occurrence of the word "of."

(33) Chapter 11 [RE]: Energy Efficiency: Section N1102.4.1.1 (R402.4.1.1) Installation. Is hereby amended locally in the City of Maryville by adding the words "and visual inspection option" after the word "Installation" in the section title, and adding the words ", and be field verified" after the word "construction."

(34) Chapter 11 [RE]: Energy Efficiency: Section N1102.4.1.2 (R402.4.1.2) Testing. Is hereby amended locally in the City of Maryville by adding the word "(optional)" after the word "Testing" in the section title, and inserting "Where required by the Building Official," before the first sentence.

(35) Chapter 11 [RE]: Energy Efficiency: Section N1103.1.1 (R403.1.1) Programmable thermostat. Is hereby amended locally in the City of Maryville by adding the word "(optional)" after the word "thermostat" in the section title, and inserting "Where required by the Building Official and," before the first sentence.

(36) Chapter 11 [RE]: Energy Efficiency: Section N1103.3.3 (R403.3.3) Duct testing (Mandatory). Is hereby amended locally in the City of Maryville by deleting the word "(Mandatory)" in the section title and inserting "Where required by the Building Official," at the beginning.

(37) Chapter 11 [RE]: Energy Efficiency: Section N1103.5.3 (R403.5.3) Hot water pipe insulation (Prescriptive). Is hereby amended locally in the City of Maryville by deleting the word "Prescriptive" and replacing it with the word "Optional" in the section title, by inserting before the first sentence "Where required by the Building Official," and by inserting "Where required by the Building Official," before the words "All remaining piping."

(38) Chapter 11 [RE]: Energy Efficiency: Section N1103.6 (R403.6) Mechanical ventilation (Mandatory). Is hereby amended locally in the City of Maryville by deleting the word "Mandatory" and replacing it with the word "Optional" in the section title, and deleting "The building shall be provided with ventilation that meets" and replacing with "Buildings provided with mechanical ventilation shall comply."

(39) Chapter 11 [RE]: Energy Efficiency: Section N1103.10 (R403.10) Pools and permanent spa energy consumption (Mandatory). Is hereby amended locally in the City of Maryville by deleting the word "Mandatory" and replacing it with the word "Optional" in the section title, and inserting "Where required by the Building Official," before the first sentence.

(40) Chapter 26, General Plumbing Requirements: Section P2603.5.1 Sewer depth. Is hereby amended locally in the City of Maryville by inserting in two (2) places "twelve inches" as the number to be inserted.

(41) Chapter 30, Sanitary Drainage: Section P3002.2 Building Sewer. Is hereby amended locally in the City of Maryville by deleting the section in its entirety and the following substituted in lieu thereof:

"P3002.2 Approved Material: Building Sewer Pipe and Pipe Fittings. Only the following materials will be accepted in the installation of building sewer pipes and fittings:

1. Cast iron soil pipe and fittings,
2. Brass fittings,
3. Bronze fittings,
4. Type 1 PVC pipe and fittings, minimum schedule 40 (ASTM 0-2665),
5. ASTM D - 3034 PVC pipe encapsulated with six (6) inches of bedding material (Size no. 7 or 67 crushed stone) on the top, both sides, and the bottom of the pipe,
6. Ductile iron pipe and fittings.

The following pipe and fitting materials are specifically prohibited:

1. Asbestos - cement pipe and fittings,
2. Concrete pipe and fittings,
3. Coextruded PVC pipe in outside building sanitary sewers."

(42) Chapter 30, Sanitary Drainage: Section P3003.13 Joints between different materials. Is hereby amended locally in the City of Maryville by inserting the following at the end:

"Co-mingling of materials in the building sewer shall be accomplished only through the use of neoprene adapters with stainless steel bands."

(43) Chapter 30, Sanitary Drainage: Section P3005.1 Drainage fittings and connections. Is hereby amended locally in the City of Maryville by inserting the following at the end:

"Bends greater than 45 degrees shall be prohibited in the building sewer."

(44) Chapter 30, Sanitary Drainage: Section P3005.2.6 Cleanout plugs. Is hereby amended locally in the City of Maryville by deleting the entire section and replacing with:

"Cleanout plugs shall be copper alloy, plastic or other approved materials. Cleanout plugs for borosilicate glass piping systems shall be of borosilicate glass. Copper alloy cleanout plugs shall conform to ASTM A74 and shall be limited for use only on metallic piping systems.

Cleanout plugs in building sewers shall have countersunk heads or be of the recessed slot type only."

(45) Chapter 30, Sanitary Drainage: Section P3005.2.2 Spacing. Is hereby amended locally in the City of Maryville by inserting the following at the end:

"Cleanouts in building sewers shall be installed not more than 80 feet apart measured from the upstream entrance of the cleanout."

(46) Chapter 30, Sanitary Drainage: Section P3005.2.4 Change of direction. Is hereby amended locally in the City of Maryville by deleting the words "building sewer," in the first sentence with nothing to be inserted in its place and inserting the following at the end of the section:

"In the building sewer cleanouts shall be installed at each change of direction which is greater than 90 degrees. (Please note that this change may be accomplished with two or more fittings. Example - Two 45 degree bends and a 22 1/2 degree bend installed in succession shall require a cleanout be installed between them regardless length of separation.)"

(47) Chapter 30, Sanitary Drainage: Section P3005.2.9 Accessibility. Is hereby amended locally in the City of Maryville by inserting the following at the end:

"All building sewer cleanouts shall be provided with clearance of not less than 36 inches (914 mm) for rodding."

(48) Chapter 30, Sanitary Drainage: Section P3005.2.3 Building drain and building sewer junction. Is hereby amended locally in the City of Maryville by deleting the section in its entirety and the following substituted in lieu thereof:

"Building drain and building sewer junction. The first exterior cleanout shall be located a minimum of three (3) feet but no more than five (5) feet from the exterior wall of the building without prior approval of the plumbing official. The use of two-way cleanouts is prohibited."

(49) Chapter 30, Sanitary Drainage: Section P3005.2.5 Cleanout size. Is hereby amended locally in the City of Maryville by deleting the second sentence.

(50) Chapter 30, Sanitary Drainage: Section P3005.4 Drain pipe sizing. Is hereby amended locally in the City of Maryville by inserting the following at the end:

"A common building sewer line must be a minimum of six (6) inches diameter."

(51) Chapter 30, Sanitary Drainage: Section P3005.4.2. Building drain and sewer size and slope. Is hereby amended locally in the City of Maryville by inserting the following at the end:

"Notwithstanding the above, four (4) inch nominal diameter building sewer drainage piping shall have a minimum fall of 1/4 inch per foot, and six (6) inch nominal diameter building sewer drainage piping shall have a minimum fall of 1/8 inch per foot."

(52) Appendix E: Manufactured Housing Used As Dwellings: Section AE304.3.2.1 Investigation. Is hereby amended locally in the City of Maryville by inserting "Where required by the Building Official," before the first sentence.

(53) Appendix E: Manufactured Housing Used As Dwellings: Section AE304.3.2.2 Fee. Is hereby amended locally in the City of Maryville by inserting "Where required by the Building Official," before the first sentence.

(54) Appendix E: Manufactured Housing Used as Dwellings: Section AE305.5.1 Structural inspections for the manufactured home installation. Is hereby amended locally in the City of Maryville by inserting at the end of the section:

> "Exception: The inspections required by this section shall not apply to manufactured homes as exempted by the State of Tennessee but shall apply to any construction or installation of decks, porches, steps or other structures or equipment. All manufactured homes shall pass a final inspection and have a certificate of occupancy issued." (1999 Code, § 12-1102)

12-603. Available in recorder's office. The Council of the City of Maryville hereby declares that one (1) copy of the aforesaid code and revisions, as modified, has been filed with the recorder of the city for a period of fifteen (15) days prior to the passage of this chapter and will remain on file and available for public review for as long as this chapter is in effect and that all public hearing and notice requirements in *Tennessee Code Annotated*, §§ 6-54-501, *et seq*., have been or will be met by the time of the final passage of this chapter. (1999 Code, § 12-1103)

12-604. Violations and penalty. Any person, firm, corporation, tenant, occupant or agent who shall violate a provision of this code or fail to comply therewith or with any of the requirements thereof, or cause such action to be taken in violation of the provisions of this code adopted by reference or locally adopted as modified, shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation is committed or continued. Upon being found guilty of such violation, such person shall be punished according to the general penalty clause of the City of Maryville or through injunctive remedies in state or federal court as appropriate.

In the event court action is taken, the city shall be entitled to recover from any person adjudicated to have violated this chapter the city's reasonable attorney fees and litigation costs incurred in bringing the action(s) to enforce the provisions of this chapter. In the city's discretion, violations of this chapter may further be adjudicated by the city's administrative hearing officer pursuant to *Tennessee Code Annotated*, §§ 6-54-1001, *et seq*., as locally adopted. (1999 Code, § 12-1104)

CHAPTER 7

ADMINISTRATIVE HEARING OFFICER

SECTION

12-701. Municipal administrative hearing officer. (1) In accordance with *Tennessee Code Annotated*, title 6, chapter 54, part 10, there is hereby created the office of administrative hearing officer to hear violations of any of the provisions codified in the Municipal Code of the City of Maryville relating to building and property maintenance, including:

(a) Locally adopted building codes - Maryville Municipal Code title 12, chapter 1;

(b) Locally adopted residential codes - Maryville Municipal Code title 12, chapter 7;

(c) Locally adopted plumbing codes - Maryville Municipal Code title 12, chapter 2;

(d) Locally adopted electrical codes - Maryville Municipal Code title 12, chapter 3;

(e) Locally adopted energy codes - Maryville Municipal Code title 12, chapter 5;

(f) Locally adopted property maintenance codes - Maryville Municipal Code title 13, chapter 1; and

(g) Locally adopted zoning codes–Maryville Municipal Code title 14, chapter 2.

(2) There is hereby created the position of administrative hearing officer to be appointed pursuant to *Tennessee Code Annotated*, title 6, chapter 54, section 1006.

(3) The amount of compensation for the administrative hearing officer shall be approved by the city council.

(4) Clerical and administrative support for the office of administrative hearing officer shall be provided as determined by the city manager.

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in *Tennessee Code Annotated*, title 6, chapter 54, §§ 1001, *et seq*. (1999 Code, § 3-301, as amended by Ord. #2019-25, Dec. 2019)

12-702. Jurisdiction and procedure before the administrative hearing officer. The administrative hearing officer's jurisdiction shall be as set out in *Tennessee Code Annotated*, title 6, § 54, section 1002, and all matters before the administrative hearing officer shall be conducted in accordance with

the provisions of *Tennessee Code Annotated*, title 6, chapter 54, §§ 1001, *et seq*., which provisions are adopted and incorporated herein by reference. (1999 Code, § 3-302, modified)

12-703. Judicial review of final order. A person who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to *Tennessee Code Annotated*, title 6, chapter 54, part 10, which shall be the only available method of judicial review. (1999 Code, § 3-303)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER
1. PROPERTY MAINTENANCE CODE.

CHAPTER 1

SECTION
13-101. Property maintenance code adopted.
13-102. Local modifications.
13-103. Available in recorder's office.
13-104. Violations and penalty.

13-101. Property maintenance code adopted. Pursuant to the authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-510, and for the purpose of regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures, the *International Property Maintenance Code*,[2] 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated herein by reference as a part of the ordinances of the City of Maryville. This code shall hereinafter be known as the "property maintenance code." It is adopted subject to the changes and additions set forth herein. (1999 Code, § 13-101, modified)

13-102. Local modifications. The following sections and appendices of the *International Property Maintenance Code*, 2018 edition, are hereby amended in the City of Maryville, as hereinafter provided:

(1) Chapter 1, Scope and Administration: Section 101.1 Title. Is hereby amended locally in the City of Maryville by inserting "City of Maryville" as the name of the jurisdiction.

(2) Chapter 1, Scope and Administration: Section 103.5 Fees. Is hereby

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

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

amended locally in the City of Maryville by deleting the section in its entirety with no replacement.

(3) Chapter 1, Scope and Administration: Section 106.3 Prosecution of violation. Is hereby amended locally in the City of Maryville by deleting the section in its entirety and replacing with:

"Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor and of a violation of the City Code. If the notice of violation is not complied with the Code Official may in his discretion institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate."

(4) Chapter 1, Scope and Administration: Section 106.4 Failure to comply. Is hereby amended locally in the City of Maryville by deleting the section in its entirety and replacing with:

"Violation Penalties. Any person who shall violate a provision of this Code or fail to comply therewith or of any of the requirements thereof shall be prosecuted within the limits provided by state or local laws and may be penalized pursuant to the general penalty clause of the City of Maryville. Each day that violation continues after due notice has been served shall be deemed a separate offense regardless of whether an additional citation has been issued. If the City must resort to the equitable relief to abate a violation, the violator should be liable to the City for the City's reasonable attorney's fees and litigation expenses in bringing and prosecuting the equitable action.

Additionally, violators may in the discretion of the City be subject to fines and penalties to be imposed by the Administrative Hearing Officer pursuant to T.C.A. §§ 6-54-1001, et seq. as adopted locally in the City Code."

(5) Chapter 1, Scope and Administration: Section 108.2 Closing of vacant structures. Is hereby amended locally in the City of Maryville by inserting after Section 108.2.1 a new section as follows:

"108.2.2 Boarding of abandoned structures. All windows and doors of abandoned structures shall be boarded in an approved manner to prevent entry by unauthorized persons. Boarding sheet material shall be minimum 1/2-inch (12.7 mm) nominal thick wood structural panels complying with the International Building Code."

(6) Chapter 1, Scope and Administration: Section 109.6 Hearing. Is hereby amended locally in the City of Maryville by deleting the last sentence in its entirety with no replacement.

(7) Chapter 1, Scope and Administration: Section 111 Means of Appeal. Is hereby amended locally in the City of Maryville by deleting the section and all of its subsections in their entirety with no replacement.

(8) Chapter 1, Scope and Administration: Section 112.4 Failure to comply. Is hereby amended locally in the City of Maryville by deleting the section in its entirety and replacing with:

"Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law and the enforcement section and penalty clause of this Ordinance."

(9) Chapter 3, General Requirements: Section 302.4 Weeds. Is hereby amended locally in the City of Maryville by deleting the first paragraph in its entirety and inserting the following in its place:

"All mowable parcels or mowable portions of parcels of a parcel located in the City limits, shall be maintained free from weeds or plant growth in excess of twelve (12) inches.

Parcels that are three (3) acres or larger and are adjacent to the city rights-of-way or adjacent to a parcel which contains an existing dwelling within one hundred fifty (150) feet of the larger parcel shall have a fifty (50) feet setback from the shared property line that shall be maintained free from weeds or plant growth in excess of eighteen (18) inches. However, parcels three (3) acres or larger shall mow the entire parcel at least two (2) times during growing season.

Mowable shall mean all parcels other than heavily wooded parcels where equipment cannot maneuver because of the natural density of the vegetation. Slopes where the gradient is steeper than three units horizontal to one unit vertical (33%) shall not be considered mowable.

The requirements of this section shall apply only to the extent that they do not conflict with the City of Maryville's Stormwater Quality Management Plan and stormwater regulations as amended which shall both supersede the provisions of this part.

This section does not apply to government owned property including greenways, parks and recreation areas nor does it apply to active and bona fide agricultural uses for livestock, crops or plant nurseries. Further, this section shall not apply to properties that legitimately qualify for and have Greenbelt classification for tax assessment purposes.

(10) Chapter 3, General Requirements: Section 302.6 Exhaust vents. Is hereby amended locally in the City of Maryville by deleting the entire section and replacing with:

"302.6 Wood smoke. Wood smoke (smoke coming from the burning of wood) shall not be permitted to escape one commercially operated property and come on to abutting or adjacent public or private property where such wood smoke:

1. Is detectable by sight or smell below the roof lines or 15 feet above grade, whichever is less, at the affected neighboring buildings or structures; and
2. Results in complaints from Owners or tenants of such abutting or adjoining property.

A person or entity producing such wood smoke will not be considered in violation of this ordinance if there exists on its property for each wood smoke producing fire:

1. A properly functioning, and at least 15 foot high chimney, smoke stack, flue or chute directing the wood smoke upward; and a functioning commercial grade exhaust fan to disburse the wood smoke to a higher altitude; or
2. Any commercially designed system or device, such as a scrubber, that removes particulate matter. Persons or entities producing wood smoke as part of participation in a city-approved special event are exempted from the provisions of this ordinance."

(11) Chapter 3, General Requirements: Section 302.9 Defacement of property. Is hereby amended locally in the City of Maryville by inserting at the end:

"All graffiti shall be removed or the surface repainted to match the existing surfaces."

(12) Chapter 3, General Requirements: Section 302 Exterior property areas. Is hereby amended locally in the City of Maryville by inserting at the end a new section as follows:

"302.10. Junkyards. All junkyards and other places where vehicles or scrap is collected before being discarded, reused or recycled shall be operated and maintained subject to the following regulations:

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

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height. Such fence is to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards. Additionally, such fence shall be subject to any other regulations that are provided in the City of Maryville Municipal Code or Maryville Land Development Regulations.

(3) All such junk yards within one thousand (1,000) feet of any right-of-way within the municipality shall be screened by natural objects, plantings, fences, or other appropriate

means so as not to be visible from the right-of-way. Additionally, such screening, plantings, or fences shall be subject to any other regulations that are provided in the City of Maryville Municipal Code or Maryville Land Development Regulations.

(4) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety."

(13) Chapter 3, General Requirements: Section 304.14 Insect screens. Is hereby amended locally in the City of Maryville by inserting "January 1 to December 31" as the dates to be inserted.

(14) Chapter 6, Mechanical and Electrical Requirements: Section 602.3 Heat supply. Is hereby amended locally in the City of Maryville by inserting "January 1 to December 31" as the dates to be inserted.

(15) Chapter 6, Mechanical and Electrical Requirements: Section 602.4 Occupiable work spaces. Is hereby amended locally in the City of Maryville by inserting "January 1 to December 31" as the dates to be inserted. (1999 Code, § 13-102, modified)

13-103. Available in recorder's office. The Council of the City of Maryville hereby declares that one (1) copy of the aforesaid code and revisions, as modified, has been filed with the recorder of the city for a period of fifteen (15) days prior to the passage of this chapter, that it will remain on file as long as this chapter is in effect and that all public hearing and notice requirements in *Tennessee Code Annotated*, §§ 6-54-501, *et seq*., have been or will be met by the time of the final passage of this chapter. (1999 Code, § 13-103)

13-104. Violations and penalty. Any person, firm, corporation, tenant, occupant or agent who shall violate a provision of this code or fail to comply therewith or with any of the requirements thereof, or cause such action to be taken in violation of the provisions of this code adopted by reference or locally adopted as modified, shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation is committed or continued. Upon being found guilty of such violation, such person shall be punished according to the general penalty clause of the City of Maryville or through injunctive remedies in state or federal court as appropriate. In the event court action is taken, the city shall be entitled to recover from any person adjudicated to have violated this chapter the city's reasonable attorney fees and litigation costs incurred in bringing the action(s) to enforce the provisions of this chapter.

Additionally, violators may in the discretion of the city be subject to fines and penalties to be imposed by the administrative hearing officer pursuant to *Tennessee Code Annotated*, §§ 6-54-1001, *et seq*., as adopted locally in the city code. (1999 Code, § 13-104)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Creation. 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. (1999 Code, § 14-101)

14-102. Membership. The planning commission shall consist of seven (7) members, one (1) of whom shall be the mayor or a person designated by the mayor, one (1) of whom shall be a member of the city council who shall be appointed by council, and five (5) of whom shall be appointed by the mayor. A majority of the membership shall be freeholders within the City of Maryville. One (1) member may reside outside of the corporate limits but within Blount County.

Terms shall be a maximum of five (5) years, except for the term of office of the member of the city council, which shall run concurrently with membership on the city council. Terms shall be arranged so that the term of one (1) member will expire each year.

Any vacancy in the appointed membership shall be filled for the unexpired term by the mayor, who shall have authority to remove any appointed member when concurred by a majority vote of the city council. (1999 Code, § 14-102)

14-103. 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. (1999 Code, § 14-103)

CHAPTER 2

ZONING AND LAND USE ORDINANCE

SECTION

14-201. General provisions. (1) Short title. This chapter shall be known, and may be cited as, the Maryville Zoning and Land Use Ordinance.

(2) Authority.

(a) This chapter is adopted pursuant to the authority contained in the *Tennessee Code Annotated* including, but not limited to, authority found in §§ 13-7-201, *et seq*.

(b) Whenever any provision of this chapter refers to or cites a section of the *Tennessee Code Annotated*, the Maryville Subdivision Regulations or Maryville City Charter and that section is later amended or superseded, the chapter shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

(3) Jurisdiction. This chapter shall be effective throughout the city's corporate limits.

(4) Effective date. The provisions in this chapter were originally adopted and became effective on June 15, 2006.

(5) Relationship to existing zoning, subdivision and flood control ordinances. To the extent that the provisions of this chapter are the same in substance as the previously adopted provisions that they replace in the city's zoning ordinances, subdivision regulations, and flood control ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, it is the express intent of this chapter that a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this chapter merely by the repeal of the zoning ordinance. In case of conflict between this chapter or any part thereof, and the whole or part of any future ordinance of the city, the most restrictive shall in all cases apply.

(6) Relationship to land use plan. It is the intention of the council that this chapter implements the planning policies and affects the zoning adopted by the council for the city, as reflected in the land use plan and other planning and zoning documents. While the council reaffirms its commitment that this chapter and any amendment to it be in conformity with adopted planning policies, the council hereby expresses its intent that neither this chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

(7) No use or sale of land or buildings except in conformity with ordinance provisions. (a) Subject to the provisions of this chapter addressing nonconforming uses, no person may use, occupy, or sell any land or buildings, or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this chapter.

(b) For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

(8) Severability. It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this chapter are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this chapter since the same would have been enacted without the incorporation into this chapter of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

(9) Computation of time. Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded in the computation.

(10) Miscellaneous. (a) As used in this chapter, words importing the masculine gender include the feminine and neuter.

(b) Words used in the singular in this chapter include the plural and words used in the plural include the singular. (1999 Code, § 14-201)

14-202. Basic definitions and interpretations. (1) Definitions. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

(a) "Accessory building." A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use.

(b) "Accessory use." Any incidentally supporting and functionally dependent use located on the same lot with its principal use, an "accessory use" is not necessarily coterminous with an accessory structure; an "accessory use" may be either auxiliary or subsidiary.

(c) "Adult day care." A service and/or licensed facility that provides accommodations for less than twenty-four (24) hours for more than five (5) unrelated adults and provides supervision, personal care services, and limited medical services to occupants of the facility. This service shall include buildings and structures occupied by persons older than eighteen (18) years of age and who receive care from individuals other than parents or guardians, relatives by blood, marriage, or adoption, in a place other than the home of the person cared for.

(d) "Antenna." Equipment designed to transmit or receive electronic signals.

(e) "Assisted living housing." A residential use containing not more than sixty (60) dwelling units to house older persons who are frail but not infirm. Lower level assistance than intermediate care institution, “assisted living housing” provides medical care and activities for daily living on an as needed basis. Uses are intended to simulate residential living in appearance, and typically generate lower levels of impact consistent with a comparable number of traditional residential units. Units may be under one (1) roof, in several buildings not to exceed sixty (60) units per building and may include cottages and independent units from the main facility that provides meals, recreation, and low level medical service.

(f) "Base flood." The flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also known as the 100-year flood.

(g) "Boarding house." A residential use consisting of at least one (1) dwelling unit together with more than two (2) rooms that are rented or are designed, or intended to be, rented but which rooms, individually or collectively, do not constitute separate dwelling units. A

rooming house or boarding house is distinguished from a short-term rented in that the former is designed to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guests.

(h) "Building." Any roofed structure, including conventional buildings, tents, mobile homes, and such. "Buildings" may be either principal or accessory, according to their use.

(i) "Certify." Whenever this chapter requires that some agency certify the existence of some fact or circumstance to the city, the city may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification.

(j) "Child care home." A home for not more than nine (9) orphaned, abandoned, dependent, abused, or neglected children, together with not more than two (2) adults who supervise such children, all of whom live together as a single housekeeping unit. A "child care home," as defined in this chapter, is an institution which conforms to Tennessee licensing regulations pertaining to such institutions.

(k) "Child care institution." An institutional facility housing more than nine (9) orphaned, abandoned, dependent, abused, or neglected children, and meeting state licensing regulations.

(l) "City." The legal entity of the City of Maryville, Tennessee as incorporated under the laws of Tennessee, and includes the legislative, administrative, and adjudicative agencies of the city.

(m) "Conference/training center." A public or private facility or improved location, including open space and buildings, for the purpose of providing a common meeting place for professional training and education, social events for formal or informal organizations, and where food and drink may be prepared, served, and consumed. Such a facility must include facilities and provision for overnight lodging for conference center guests.

(n) "Consignment store and thrift shop." See municipal code § 9-106 for definitions and regulations.

(o) "Continuing care retirement community." A Continuing Care Retirement Community ("CCRC") consists of a specified combination of residential uses that may be special exception or permitted uses. A CCRC shall include single-family housing (including duplexes, and multi-family townhouses) and a minimum combination of at least two (2) of the following three (3) uses: independent living and care, assisted living housing, and nursing care facilities, where the average length of stay in these type facilities is more than forty-five (45) days. At least one (1) of such facilities must be state-licensed. Other non-residential uses may be included in this type of development when integrally designed to be compatible and accessory to the primary uses and intent of the development as a whole.

(p) "Convenience store." A one (1) story retail store containing less than two thousand (2,000) square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract and depends upon a large volume of stop-and-go traffic.

(q) "Corner lot." Any lot bounding the intersection of two (2) streets (or upon the inside of a curve of a street) where the corner interior angle is less than one hundred thirty-five (135) degrees (or if tangents to the points where the street lines meet the curve form such angle).

(r) "Council." The City Council of the City of Maryville.

(s) "Day care center." Any child care arrangement that provides day care on a regular basis for more than four (4) hours per day for more than five (5) children of preschool age, and meets requirements for licensing by the State of Tennessee.

(t) "Deck." A roofless, outdoor space built as an aboveground platform that adjoins a house and is also supported by means other than the principal structure.

(u) "Developer." A person who is responsible for any undertaking that requires a zoning permit or other use-related permit as described in the terms of this chapter.

(v) "Development." That which is to be done pursuant to a zoning permit or other use-related permit as described in the terms of this chapter.

(w) "Driveway." The portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

(x) "Duplex." A two (2) family residential use in which the dwelling units share a common wall (including, without limitation, the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

(y) "Dwelling unit." An enclosure containing sleeping, kitchen, and bathroom facilities designed for and used, or held ready for use, as a permanent residence by one (1) family.

(z) "Erected." Altered, constructed, enlarged, installed, moved, remodeled, reconstructed and similar actions, and when used in conjunction with a sign, includes painting, hanging or otherwise affixing.

(aa) "Extraterritorial planning area." The portion of the city's planning jurisdiction that lies outside the corporate limits of the city and constitutes the city's urban growth boundary.

(bb) "Family." An individual, or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons not so related living together as a single housekeeping unit in a dwelling unit.

(cc) "Farmers' market." See municipal code § 9-105 for definition and regulations.

(dd) "Fence." An unroofed enclosing barrier of any nature (including vegetation) or construction. A vegetative fence may form a screen. The opacity of a fence or screen shall be deemed the ratio of open area which permits unobstructed passage of light and air to the closed area, expressed as a percent. A retaining wall is a fence insofar as it extends in height above the finished grade of the high side.

(ee) "Flag lot." A lot having a narrow portion of which fronts on a public/private street and where access to the public/private street is across that narrow portion for the exclusive use of that lot only.

(ff) "Flea market." See municipal code § 9-104 for definition and regulations.

(gg) "Floodplain." Any land area susceptible to partial or complete inundation by water from the base flood. As used in this chapter, the term refers to that area designated as subject to flooding from the base flood (100-year flood) on the flood boundary and floodway map prepared by the Tennessee Valley Authority and approved by the Federal Emergency Management Agency (FEMA), a copy of which is on file in the planning department.

(hh) "Floodway." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1'). As used in this chapter, the term refers to that area designated as a floodway on the flood boundary and floodway map prepared by the Tennessee Valley Authority and approved by FEMA, a copy of which is on file in the planning department. The adopted floodway is depicted on the city zoning map as an overlay zoning district, pursuant to the terms of this chapter.

(ii) "Freestanding sign." A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of a sign. A sign that stands without supporting elements is also a "freestanding sign."

(jj) "Garage sale." See municipal code § 9-102 for definition and regulations.

(kk) "Gathering place." A facility maintained for the purpose of providing accommodations for weddings, family reunions, social functions, and dances and which may involve activities such as on-site catering, playing live and recorded music, display sales and rental of clothing, decorations associated with a particular function and activity to be conducted on said property. Such a facility shall be located on no less than two (2) acres and must be located along a state or federal highway.

It is the intent of this chapter that all the above activities are to be conducted in connection with activities conducted on said accommodations.

(ll) "Gross floor area." The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

(mm) "Ground floor." The story connected to the outside at ground level plus or minus four feet (4').

(nn) "Halfway house." A home for not more than nine (9) persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons, not more than eleven (11) of whom live together as a single housekeeping unit.

(oo) "Height of a structure." The distance measured vertically in feet from the finished grade (or, in the case of a building, from the ground level from which fire protection equipment can service the lot) to the highest point of a flat roof, to the deck line of a mansard roof, to the average point between eaves and ridge for gable, hip, gambrel roofs, and to the highest point of a horizontal member or of any substantial part of other structures. Height limits for airport hazard districts shall be deemed elevations, measured from an airport reference point or from mean sea level.

(pp) "Home for handicapped or infirm." A residence within a single dwelling unit for at least six (6), but not more than nine (9), persons who are physically or mentally handicapped or infirm, together with not more than two (2) persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

(qq) "Home occupation." An activity for gain or support which:

(i) Is conducted by a person on the same lot (in a residential district) where such person resides; and

(ii) Is incidental or is not commonly associated with the residential use as to be regarded as an accessory use, and can be conducted without any significantly adverse impact on the surrounding neighborhood.

Without limiting the generality of the foregoing, a use may be regarded as having a significantly adverse impact on the surrounding neighborhood if:

(i) Goods, stock in trade, or other commodities are displayed.

(ii) Tools, machinery, and equipment are not screened from view of the surrounding neighborhood.

(iii) Any on-premises retail sales occur.

(iv) More than one (1) person not a resident of the premises is employed in connection with the purported home occupation.

(v) It creates objectionable noise, fumes, odor, dust or electrical interference.

(vi) More than twenty percent (20%) of the total gross floor area of residential buildings plus other buildings housing the purported home occupation, or more than five hundred (500) square feet of gross floor area (whichever is less), is used for home occupational purposes.

The following is a nonexhaustive list of examples of enterprises that may be home occupations if they meet the foregoing definitional criteria:

(i) The office or studio of a physician, dentist, artist, musician, lawyer, architect, engineer, teacher, or similar professional;

(ii) Workshops, greenhouses, or kilns;

(iii) Dressmaking or hairdressing studios not to exceed one (1) hairdressing chair within the primary structure; and

(iv) Similar or like use as determined by the administrator.

(rr) "Impact overlay permit." A permit issued by the planning commission that authorizes the recipient to make use of property in accordance with the requirements of this chapter as well as any additional requirements imposed as a result of an impact analysis. The impact analysis shall be performed pursuant to the requirements described in the Impact Overlay District of this chapter.

(ss) "Independent living facility." A residential use to house older persons who are not infirmed. Independent living residential services may include meals, housekeeping, social programs, daily maintenance and other services. An "independent living facility" is intended to be residential in character and is expected to generate lower levels of impact than traditional residential units. Independent care facilities may be part of a continuing care retirement community.

(tt) "Institution for handicapped or infirm care." An institutional facility housing and providing care or assistance for more than nine (9) persons who are physically or mentally handicapped or infirm. Persons residing in such homes, including the aged or disabled, principally need residential care rather than medical treatment.

(uu) "Intermediate care home." A facility maintained for the purpose of providing accommodations for not more than seven (7) occupants needing medical care and supervision at a lower level than that

provided in a nursing care home, but at a higher level than that provided in institutions for the handicapped or infirm.

(vv) "Kennel." A commercial operation that:

(i) Provides food and shelter and care of animals for purposes not primarily related to medical care (a "kennel" may or may not be run by, or associated with, a veterinarian); or

(ii) Engages in the breeding of animals for sale.

(ww) "Leased garden area." A plot of ground, not to exceed two (2) acres, leased or rented for the sole purpose of cultivating herbs, fruits, flowers, and/or vegetables for non-profit use. On-site retail sales are prohibited.

(xx) "Light industrial uses." Uses as permitted and allowed within the Business/Transportation Zone and special exception uses within the Central Community Zone are specific operations that will have little or no adverse impact on surrounding districts or uses. "Light industrial uses" may include storage, distribution, manufacturing, processing and fabrication which will have little or no adverse effects upon nearby residential or commercial uses.

(yy) "Lot." A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

If a public body or any authority with the power of eminent domain condemns, purchases, or otherwise obtains fee simple title to, or a lesser interest in, a strip of land cutting across a parcel of land otherwise characterized as a lot by this definition, or a public road is created across a parcel of land otherwise characterized as a lot by this definition, and the interest thus obtained or the road so created is such as effectively to prevent the use of this parcel as one (1) lot, then the land on either side of this strip shall constitute a separate lot.

Subject to the provision in this chapter concerning nonconforming lots, and the subdivision regulations of the city, the permit-issuing authority and the owner of two (2) or more contiguous lots may agree to regard the lots as one (1) lot if necessary or convenient to comply with any of the requirements of this chapter.

(zz) "Lot area." The total gross lot area circumscribed by the boundaries of a lot, except that:

(i) When the legal instrument creating a lot shows the boundary of the lot extending into a public right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and thirty feet (30') from the center of the traveled portion of the street; and

(ii) In a residential district, when a private road that serves more than three (3) dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

(aaa) "Lot frontage." The length of a straight line drawn between the two (2) points where the abutting property lot lines or other adjacent lot lines cut a given street line of a public street. In the case of a corner lot, one (1) or both of the end points shall be deemed to be the imaginary point(s) of the intersection of tangents to any curve from where the street lines begin such curve. A lot may have more than one (1) frontage; however, only one (1) such frontage shall be required to meet the minimum frontage requirements of this code. Situations in which property abuts the end line of a street designed later to be extended shall not be deemed frontage situations.

(bbb) "Lot line." The legal boundary for a lot.

(ccc) "Lot width." The length of a straight line drawn between the points where any street setback line cuts the lot lines adjacent to and intersecting that street line from which the setback is measured. In the case of uses for which required lot width exceeds required lot frontage, lot width may be similarly measured along any line parallel to the street setback line and located farther from the centerline than the street setback line is located. Lot width requirements shall be applied for each separate lot frontage.

(ddd) "Mobile home." A dwelling unit that:

(i) Is not constructed in accordance with the standards set forth in the city building code;

(ii) Is composed of one (1) or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; and

(iii) Exceeds forty feet (40') in length, and eight feet (8') in width.

(eee) "Mobile food park." The use of land designed to accommodate two (2) or more Mobile Food Vendors (MFVs) offering food and/or beverages for sale to the public as a primary use of the property, which may include seating areas for customers. A special event hosted by the primary use of the property does not constitute a mobile food park.

(fff) "Mobile home park." A residential use in which more than one (1) mobile home is located on a single lot.

(ggg) "Modular home." A dwelling unit constructed in accordance with the standards set forth in the city building code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of

two (2) sections transported to the site in a manner similar to a mobile home (except that the modular home meets the city building code applicable to site-built homes), or a series of panels or room sections transported on a truck and erected or joined together on the site.

(hhh) "Motor home." A motor vehicle which is designed, constructed and equipped as a dwelling place, living abode or sleeping place.

(iii) "Multi-family apartments." A multi-family residential use other than a multi-family conversion or multi-family townhouse.

(jjj) "Multi-family conversion." A multi-family residence containing not more than four (4) dwelling units and resulting from the conversion of a single building containing at least two thousand (2,000) square feet of gross floor area that was in existence on the effective date of this provision and that was or originally designed, constructed and occupies as a single-family residence.

(kkk) "Multi-family residence." A residential use consisting of a building containing three (3) or more dwelling units. For purposes of this definition, a "building" includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch).

(lll) "Multi-family townhouse." A multi-family residential use in which each dwelling unit shares a common wall (including without limitation, the wall of an attached garage or porch) with at least one (1) other dwelling unit and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

(mmm) "Neighborhood utility facilities." Utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such facilities are proposed to be located.

(nnn) "Nonconforming sign." A sign that, on the effective date of this chapter, legally does not conform to one (1) or more of the regulations set forth in this chapter.

(ooo) "Nonconforming use." A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. The term also refers to the activity that constitutes the use made of the property.

(ppp) "Nursery schools." A facility for the organized instruction of pre-kindergarten children.

(qqq) "Nursing care institution." An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than nine (9) persons.

(rrr) "Parking space." A portion of the vehicle accommodation area set aside for the parking of one (1) vehicle.

(sss) "Person." An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.

(ttt) "Personal care services." Services that require a state license and/or advanced schooling in order to practice a trade and employment and would include, but not be limited to, cosmetologists and barbers, licensed massage therapists, athletic trainers, acupuncture technicians, dietitians and nutritionists, opticians, physical therapists, or any similar or like occupation.

(uuu) "Planned residential development." A development constructed on a tract of at least five (5) acres under single ownership, planned and developed as an integral unit, and consisting of single-family detached residences combined with either two (2) family residences or multi-family residences, or both, all developed in accordance with the planned development provisions of this chapter.

(vvv) "Planned Unit Development (PUD)." A development constructed on a tract of at least twenty-five (25) acres under single ownership, planned and developed as an integral unit, and consisting of a combination of residential and nonresidential use on land within a PUD district.

(www) "Planning commission." The municipal planning commission, created in accordance with appropriate provisions of *Tennessee Code Annotated*, title 13, "Public Planning and Housing," with jurisdiction in Maryville and the surrounding territory.

(xxx) "Planning department." The section of the City of Maryville which is responsible for administering land use regulations and performing current and long-range planning duties for the city.

(yyy) "Planning jurisdiction." The area within the city limits as well as the area beyond the city limits within which the city is authorized to plan for and regulate development, also known as the "urban growth boundary."

(zzz) "Portable storage containers." Any metal box-like storage unit as typified by shipping containers designed to be transported on a flatbed truck or trailer and delivered to a site ready for use. This definition shall not include manufactured homes or factory manufactured modular units. Nor shall it include functional semi-trailers.

(aaaa) "Primary residence with accessory apartment." A residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than twenty-five percent (25%) of the gross floor area of the building or more than a total of seven hundred fifty (750) square feet.

(bbbb) "Principal building." The primary building on a lot or a building that houses a principal use.

(cccc) "Principal use." The one (1) specific primary purpose of use, characterized by an essential element without which the use would not exist as such; a "principal use" is not necessarily coterminous with a principal structure; a "principal use" may involve one (1) or more operations; a "principal use" is functionally independent of other uses with which it may jointly occupy a lot or a structure.

(dddd) "Professional service." A vocation, calling, occupation, or employment requiring training in the arts or sciences, or combination thereof, requiring advanced study in a specialized field; any occupation requiring licensing by the state and maintenance of professional ethics and standards applicable to a certain field and may include, but not be limited to, the fields of accounting, architecture, landscape architecture, land surveying, law, medicine, professional engineering, real estate, appraising, professional nursing; or a person who is licensed or registered by the state to perform a certain trade or specific activity within the fields mentioned above or of similar employment.

(eeee) "Public rummage sale." See municipal code § 9-103 for definition and regulations.

(ffff) "Receive-only earth station." An antenna and attendant processing equipment for reception of electronic signals from satellites.

(gggg) "Restaurant." An establishment where food and drink is prepared, served, and consumed primarily within the principle building.

(hhhh) "Rooming house." See "boarding house."

(iiii) "Short term rental unit." A residential dwelling that is rented wholly or partially for a fee for a period of less than thirty (30) continuous days and does not include a hotel or a bed and breakfast establishment.

(jjjj) "Sign." Any device that:

(i) Is sufficiently visible to persons not located on the lot where such device is located to accomplish either of the objectives set forth in subsection (ii) of this definition; and

(ii) Is designed to attract the attention of such persons or to communicate information to them.

(kkkk) "Sign permit." A permit issued by the city that authorizes the recipient to erect, move, enlarge, or substantially alter a sign.

(llll) "Single-family detached residence." More than one (1) dwelling per lot. A residential use consisting of two (2) or more single-family detached dwelling units on a single lot.

(mmmm) "Single-family detached residence." One (1) dwelling unit per lot. A residential use consisting of a single detached building containing one (1) dwelling unit and located on a lot containing no other dwelling units.

(nnnn) "Story." Any fully enclosed level of a building with at least an eight foot (8') distance from floor to ceiling. Such level must span the entire distance from all exterior walls (i.e., partial mezzanine floors do not count as a story). A basement or upper level may also count as a story provided it satisfies the criteria above. The top floor area under a sloping roof with less floor area is a half story.

(oooo) "Street." A public street or a street with respect to which an offer of dedication has been made and acceptance of dedication has been made by the City of Maryville.

(pppp) "Structures." Any erected material or combination of materials, the use of which requires a location on the ground, including, but not limited to, buildings, stadiums, radio towers, sheds, storage bins, fences, septic tanks, signs and parking lots. "Structures" may be either principal or accessory, according to their use.

(qqqq) "Subdivision." The division of a tract of land into two (2) or more lots, sites, or other divisions requiring new streets or utility construction, or any subdivision of less than five (5) acres for the purpose, whether immediate or future, of sale or building development and includes re-subdivision and, when appropriate to context, relates to the process of re-subdividing or to the land or area subdivided.

(rrrr) "Tearoom/café." An establishment having a maximum seating capacity of sixty (60) seats serving food and drink such as baked goods, soups, sandwiches, entrees and desserts.

(ssss) "Total floor area." Area measured to the exterior face of exterior walls of the first story of a building plus, similarly measured, the area of any additional usable stories.

(tttt) "Tower." Any structure whose principal function is to support an antenna.

(uuuu) "Tract." A lot. The term "tract" is used interchangeably with the term "lot," particularly in the context of subdivisions, where one (1) "tract" is subdivided into several "lots."

(vvvv) "Transient vendor." See municipal code §§ 9-201, *et seq*., for definition and regulations.

(wwww) "Travel trailer." A structure that:

(i) Is intended to be transported over the streets and highways (either as a motor vehicle or attached to, or hauled by, a motor vehicle); and

(ii) Is designed for temporary use as sleeping quarters but that does not satisfy one (1) or more of the definitional criteria of a mobile home.

(xxxx) "Trees." Vegetation growing to a mature height in excess of twenty-five feet (25').

(yyyy) "Two-family apartment." A two (2) family residential use other than a duplex, two (2) family conversion, or primary residence with accessory apartment.

(zzzz) "Two-family conversion." A two (2) family residence resulting from the conversion of a single building containing at least two thousand (2,000) square feet of gross floor area that was originally designed, constructed and occupied as a single-family residence.

(aaaaa) "Two-family residence." A residential use consisting of a building containing two (2) dwelling units. If two (2) dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be located in one (1) building.

(bbbbb) "Use." The activity or function that actually takes place, or is intended to take place, on a lot.

(ccccc) "Utility facilities." Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose by *Tennessee Code Annotated* and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil or electronic signals. Excepted from this definition are utility lines and supporting structures located within a public right-of-way.

(ddddd) "Variance." A grant of permission by the board of zoning appeals that authorizes the recipient to do that which, according to the strict letter of this chapter, he could not otherwise legally do.

(eeeee) "Vegetation." Any object of natural growth and includes ground cover, shrubs, and trees.

(fffff) "Wholesale sales." On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

(ggggg) "Zoning permit." A permit issued by the city that authorizes the recipient to make use of property in accordance with the requirements of this chapter.

(2) Lots divided by zoning district lines. (a) Whenever a single lot is located within two (2) or more different zoning districts, and if any of the portions of the zoning districts do not meet the applicable minimum lot size, nor would they accommodate the density/dimension requirements, then the regulations applicable to the zoning district within which the larger portion of the lot lies shall apply to the entire lot.

(b) Whenever a single lot is located within two (2) or more different zoning districts, and the portions of the zoning districts do meet the applicable minimum lot size, and they could accommodate the density/dimension requirements, then the regulations applicable to the zoning district shall apply. (1999 Code, § 14-202, as amended by Ord. #2019-22, Nov. 2019, and Ord. #2021-10, Feb. 2021)

14-203. Board of zoning appeals; planning department, downtown design review board and municipal planning commission basic powers, functions and procedures. (1) Establishment, terms, removal and replacement.

(a) The Board of Zoning Appeals (BZA) shall consist of five (5) members and is established in accordance with *Tennessee Code Annotated*, § 13-7-205. Members of the board may also be members of the planning commission, design review board or historic zoning commission, but none are required to be. All members shall be appointed by the mayor and confirmed by a majority vote of the city council.

(b) All board of zoning appeals members shall reside within the corporate limits of the City of Maryville. Board of zoning appeals members shall serve for four (4) years staggered terms. BZA members who are also members of other appointed boards or commissions (if any) shall serve terms which are coterminous with their other appointments. Members may continue to serve until their successors have been appointed. Any vacancy shall be filled for any unexpired term by an appointment by the mayor with confirmation by the city council.

(c) Members may be reappointed to successive terms without limitation.

(d) Board of zoning appeals members may be removed by the mayor at any time for failure to attend three (3) consecutive meetings or for failure to attend twenty-five percent (25%) or more of the meetings within any twelve (12) month period, or for any other good cause related to performance of duties.

(e) If a board member moves outside the city, that shall constitute a resignation from the board, effective upon the date a replacement is appointed.

(2) Meetings of the board of zoning appeals. (a) The board of zoning appeals shall establish a regular meeting schedule and shall meet frequently enough so that it can take action expeditiously on those matters before it. Notice of at least five (5) days shall be provided of a meeting of the board.

(b) All meetings of the board shall be open to the public, and the agenda for each board meeting shall be made available in advance of the meeting.

(3) Quorum. (a) A quorum for the board of zoning appeals shall consist of a majority of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take official action.

(b) A member who has recused himself due to a conflict of interest shall be counted as present for purposes of determining whether a quorum is present.

(4) Voting. (a) The concurring vote of a simple majority of the regular board membership (excluding vacant seats) shall be necessary to reverse

any order, requirement, decision, or determination of the administrator or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance or to grant any variance. All other actions of the board shall also be taken by majority vote, a quorum being present.

(b) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as a negative vote unless the member has recused himself or abstains.

(c) A member may recuse himself from voting on a particular issue under the following circumstances:

(i) If the member has a direct financial interest in the outcome of the matter at issue;

(ii) If the matter at issue involves the member's own official conduct;

(iii) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility;

(iv) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest; or

(v) For any other reason under state law where recusal would be appropriate.

(5) Board of zoning appeals officers. (a) At its first regular meeting in July, the board of zoning appeals shall, by majority vote of its membership (excluding vacant seats) elect one (1) of its members to serve as chairman and preside over the board's meetings and one (1) member to serve as vice chairman. The persons so designated shall serve in these capacities for terms of one (1) year. Vacancies may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).

(b) The chairman and vice chairman may take part in all deliberation and vote on all issues.

(6) Powers and duties of the board of zoning appeals. (a) The board of zoning appeals shall hear and decide:

(i) Appeals from any order, decision, requirement, or interpretation of this chapter made by any administrative official in carrying out the duties of his office.

(ii) Applications for variances.

(iii) Questions involving interpretation of the zoning map, including disputed district boundary lines and lot lines, and requests for special exceptions as provided for in this chapter.

(iv) Any other matter the board is required to act upon by any other city ordinance. In exercising these powers the BZA shall interpret this chapter, the zoning map, and any other maps, charts, and materials incorporated herein in light of all applicable statutes and of the comprehensive plan for Maryville.

(b) The board may adopt rules and regulations governing its procedures and operations, which rules and regulations are consistent with the provisions of this chapter.

(7) Planning department--land use administrator. Except as otherwise specifically provided, primary responsibility for administering and enforcing this chapter may be assigned by the city manager to one (1) or more individuals. The person or persons to whom these functions are assigned shall be referred to in this chapter as the "land use administrator" or "administrator." The term "staff" or "planning staff" is sometimes used interchangeably with the term "administrator." "Administrator" shall mean the same as "building commissioner" as referred to in *Tennessee Code Annotated*, §§ 13-7-206 and 13-7-208.

(8) Downtown Design Review Board (DDRB). (a) Definition/purpose. The downtown design review board is an ad hoc, advisory committee to the Maryville Municipal Planning Commission. The purpose of the board is to assist in creating guidelines and standards for downtown development, and to review conceptual plans for construction, major renovation, relocation, or demolition of any structure in the downtown districts for compliance with those standards.

(b) Membership. The downtown design review board members shall be appointed by the mayor. The board shall consist of seven (7) members: A representative of a local patriotic or historical organization; an architect, if available; and a member of the planning commission, at the time of such person's appointment. The remaining members shall be appointed from the community in general. The terms of members of the downtown design review board shall be five (5) years. Members may be appointed to successive terms without limitation. DDRB members can also be members of the board of zoning appeals or the historic zoning commission, but are not required to be.

(c) Meetings. The DDRB shall establish a regular meeting schedule and shall meet with sufficient frequency that it can take action expeditiously. Adequate notice shall be provided of a meeting of the board. All meetings of the board shall be open to the public, and the agenda for each board meeting shall be made available in advance of the meeting. The board may adopt the rules and regulations consistent with the provisions of this subsection.

(i) Quorum. A quorum for the DDRB shall consist of a majority of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take official action. A member who has recused himself due to a conflict of interest shall be counted as present for purposes of determining whether a quorum is present.

(ii) Voting. All action of the board shall be taken by majority vote, a quorum being present. A member may recuse

himself from voting on a particular issue under the following circumstances:

(A) If the member has a direct financial interest in the outcome of the matter at issue;

(B) If the matter at issue involves the member's own official conduct;

(C) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility;

(D) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgement in the public interest;

(E) For any other reason under state law where recusal would be appropriate; or

(F) Voting on the matter would create an appearance impropriety.

(d) Jurisdiction.

(i) The DDRB has jurisdiction in non-residential and multi-family uses per *Tennessee Code Annotated*, § 6-54-133. The Maryville Downtown Review Board is limited to the downtown zones, and the following zoning districts must conform to downtown design standards.

(A) Central Business District.

(B) Central Business District Support Zone.

(C) Heritage Development Zone.

(D) Office Transition Zone.

(E) Washington Street Commercial Corridor.

(ii) Decision making thresholds. (A) Table of review levels. The following table indicates the items which required review and approval by the downtown design review board and those which development services staff may administratively approve. Staff may refer any staff level item to the DDRB for their review and approval. An applicant may also request any staff level item to be reviewed and approved by the DDRB.

Table of Review Levels

TYPES OF APPLICATION	**DDRB**	**STAFF**
Maintenance/in-kind repair/replacement		X
Minor restoration (exterior alterations that return the building, structure or site to its original condition)		X

TYPES OF APPLICATION	DDRB	STAFF
Signage		X
All exterior work on single-family residential uses, pursuant to *Tennessee Code Annotated,* § 6-54-133		X
Awning/canopies		X
Paint to match existing or approved color palette		X
Exterior lighting		X
Fences and screening walls		X
New paint that is not a pre-approved color	X	
All new construction, accessory buildings, and additions	X	
Renovation (changes to the exterior configuration of a building or parcel, such as window/door alterations, the addition of mechanical equipement, that are not considered restoration)	X	
Demolition	X	
Departures (alternatives to the regulations contained within § 14-209(4)-(8), subject to the provisions of § 14-203(8)(d)(ii)(B))	X	

(B) Design criteria departure. The downtown design review board may, by majority vote, recommend flexibility from the design regulations if it is agreed that the proposed alternative is equal to, or better than, the written standard. In addition, at least two (2) of the following criteria must be met:

(1) The alternative is appropriate in scale and character to the surrounding area.

(2) There is evidence that the alternative is historically appropriate for the site/structure.

(3) The alternative employs innovation and/or technology that the original regulation does not account for.

(4) The alternative meets the intent of the original regulation.

(e) The DDRB is to report its findings to the planning commission for review and validation. In all cases, the review board shall review and report within sixty (60) days all applications within the designated zones. If noncompliance is found, then the applicant shall be informed of the finding in writing no later than three (3) days after the termination of the sixty (60) day period. If found in compliance, the applicant shall be notified within a reasonable time of approval.

(f) Review of decision. Any applicant who may disagree with any recommendation of the downtown design review board may appeal for a hearing de novo to the Maryville Municipal Planning Commission when said application is considered and make known his or her objections. (1999 Code, § 14-203, as amended by Ord. #2020-2, Jan. 2020, 2021-02, Feb 2022, and 2022-28, June 2022)

14-204. Permits. (1) Permits required. (a) The use made of property may not be substantially changed, substantial clearing, grading, or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with, and pursuant to, one (1) of the following permits:

(i) A zoning permit issued by the administrator.

(ii) A special exception permit issued by the board of zoning appeals.

(iii) A sign permit issued by the administrator.

(b) Zoning permits and special exception permits and sign permits are issued under this chapter only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this chapter if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and unless subsequently amended and approved as amended, all development shall occur strictly in accordance with such approved plans and applications.

(c) A zoning permit, special exception permits, or sign permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority.

(2) No occupancy, use, or sale of lots until requirements fulfilled. Issuance of a special-use or zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter improvements. However, except as otherwise provided expressly in this chapter, the intended use may not be commenced, no building

may be occupied until all of the requirements of this chapter and all additional requirements imposed pursuant to the issuance of an approval, permit or special exception permit have been met.

(3) Who may submit permit applications. (a) Applications for zoning, special exception, and sign permits will be accepted only from persons having the legal authority to take action in accordance with the permit. As an illustration in general, this means that applications should be made by the owner or lessees of the property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this chapter or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).

(b) The administrator may require an applicant to submit evidence of his authority to submit the application in accordance with subsection (1) above whenever there appears to be a reasonable basis for questioning this authority.

(4) Applications to be complete. (a) All applications for zoning, special exception or sign permits must be complete before the permit-issuing authority is required to consider the application.

(b) Subject to subsection (3) above, an application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this chapter.

(c) All detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) shall be in accordance with any public works standards adopted by the City of Maryville, or in accordance with specifications outlined by the city director of engineering and public works. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with the standards, so long as the plans provide sufficient information to allow the permit-issuing authority to evaluate the application in light of the substantive requirements. However, whenever this chapter requires a certain element of a development to be constructed in accordance with other specifications, separate and apart from this document, then no construction work on such element may be commenced until detailed construction drawings have been submitted to, and approved by, the administrator. Failure to observe this requirement may result in permit revocation or other penalty as provided otherwise in this chapter.

(d) The presumption established by this chapter is that all of the information set forth in the Maryville Land Development and Public Works Standards is necessary to satisfy the requirements of this section.

However, it is recognized that each development is unique, and therefore the permit-issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the city council or board of zoning appeals, the applicant may rely in the first instance on the recommendations of the administrator as to whether more or less information than set forth in the Maryville Land Development and Public Works Standards should be submitted.

(e) The administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the administrator to determine compliance with this chapter, such as applications for zoning permits to construct single-family or two (2) family houses, or applications for sign permits, the administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

(5) Staff consultation before formal application. Before submitting an application for any other permit, developers are strongly encouraged to consult with the planning staff concerning the application of this chapter to the proposed development.

(6) Staff consultation after applications submitted. (a) Upon receipt of a formal application for a zoning or special exception permit, the administrator shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the applicable requirements of this chapter, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.

(b) If the application is for a special exception, the administrator shall place the application on the agenda of the board of zoning appeals when the applicant indicates that the application is as complete as he intends to make it. However, if the administrator believes that the application is incomplete, he shall recommend to the appropriate board that the application be denied on that basis.

(7) Zoning permits. (a) A completed application form for a zoning permit shall be submitted to the administrator by filing a copy of the application with the administrator in the planning department.

(b) The administrator shall issue the zoning permit unless he finds, after reviewing the application and consulting with the applicant as provided in § 14-204(6), that:

(i) The requested permit is not within his jurisdiction according to the table of permissible uses;

(ii) The application is incomplete; or

(iii) If completed as proposed in the application, the development will not comply with one (1) or more requirements of this chapter (not including those requirements concerning which a variance has been granted or those the applicant is not required to comply with based on a prior nonconforming use).

(c) If the administrator determines that the development for which a zoning permit or special exception is requested will have, or may have, substantial impact on surrounding properties, he shall, at least ten (10) days before taking final action on the permit request, send a written notice to those persons who have listed for taxation real property any portion of which is within one hundred fifty feet (150') of the lot that is the subject of the application, informing them that:

(i) An application has been filed for a permit authorizing identified property to be used in a specified way;

(ii) All persons wishing to comment on the application should contact the administrator by a certain date; and

(iii) Persons wishing to be informed of the outcome of the application should send a written request for such notification to the administrator.

(8) Authorizing use or occupancy before completion of development under zoning permit. In cases when, because of weather conditions or other factors beyond the control of the zoning-permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning permit recipient to comply with all of the requirements of this chapter prior to commencing the intended use of the property or occupying any buildings, the administrator may authorize the commencement of the intended used or the occupancy of buildings (insofar as the requirements of this chapter are concerned) if the permit recipient provides a performance bond or other security satisfactory to the administrator to ensure that all of the requirements of this chapter will be fulfilled within a reasonable period (not to exceed twelve (12) months) determined by the administrator.

(9) Special exception permits. (a) An application for a special exception permit shall be submitted to the board of zoning appeals by filing a copy of the application with the administrator in the planning department.

(b) Subject to subsection (c) below, the board of zoning appeals shall issue the requested permit unless it concludes, based upon the information submitted at the hearing, that:

(i) The requested permit is not within its jurisdiction according to the table of permissible uses;

(ii) The application is incomplete; or

(iii) If completed as proposed in the application, the development will not comply with one (1) or more requirements of this chapter (not including those the applicant is not required to

comply with under the circumstances specified in this chapter in § 14-208).

(c) Even if the permit-issuing board finds that the application complies with all other provisions of this chapter, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

(i) Will materially endanger the public health or safety;

(ii) Will substantially injure the value of adjoining or abutting property;

(iii) Will not be in harmony with the area in which it is to be located;

(iv) Will not be in general conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the council; or

(v) Will create impacts on public services and facilities which impacts are beyond the capacity of the city to address with available public funds.

(10) Burden of presenting evidence, burden of persuasion. (a) The burden of presenting a complete application to the permit-issuing board shall be upon the applicant. However, unless the board informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete.

(b) Once a completed application has been submitted, the burden of presenting evidence to the permit-issuing board sufficient to lead it to conclude that the application should be denied for any reasons stated in subsections (9)(b)(i), (9)(b)(iii) or (9)(c) above shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.

(c) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant.

(11) Recommendation on special exception permit applications.

(a) When presented to the board of zoning appeals at the hearing, the application for a special exception permit shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's completeness and the other requirements of this chapter, as well as, any staff recommendations for additional requirements to be imposed by the board of zoning appeals. Additional requirements shall be related to the review of the project

impact analysis, and shall bear a clear relationship to mitigation of impacts identified in the analysis.

(b) If the staff proposes a finding or conclusion that the application fails to comply with § 14-204(4) or any other requirement of this chapter, it shall identify the requirement in question and specifically state supporting reasons for the proposed finding or conclusions.

(12) Additional requirements on special exception permits.

(a) Subject to subsection (b) below, in granting a special exception permit, the board of zoning appeals respectively may attach to the permit such reasonable requirements in addition to those specified in this chapter as will ensure that the development in its proposed location:

(i) Will not endanger the public health or safety;

(ii) Will not injure the value of adjoining or abutting property;

(iii) Will be in harmony with the area in which it is located; and

(iv) Will be in conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the council.

(b) The board of zoning appeals may not attach additional conditions that modify or alter the specific requirements set forth in this chapter unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(c) Without limiting the foregoing, the board may attach to a permit a condition limiting the permit to a specified duration. Where no action is taken to construct the improvement by the expiration date, a new permit shall be required.

(d) All additional conditions or requirements shall be entered on the permit.

(e) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this chapter.

(f) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in subsections (9)(b) or (9)(c) above.

(13) Authorizing use, occupancy, or sale before completion of development under special exception permits. (a) In cases when, because of weather conditions or other factors beyond the control of the special exception permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this chapter before commencing the intended used of the property or occupying any buildings or selling lots in a subdivision, the permit-issuing board may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this chapter are concerned) if the permit recipient provides a performance

bond or other security satisfactory to the board to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve (12) months).

(b) When the board imposes additional requirements upon the permit recipient, or when the developer proposes in the plans submitted to install amenities beyond those required by this chapter, the board may authorize the permitted to commence the intended used of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed if it specifies a date by which, or a schedule according to which, such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of one (1) or more of the following:

(i) A performance bond or other security satisfactory to the board is furnished.

(ii) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made.

(iii) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by other sections of this chapter concerning penalties, remedies for violations and permit revocation.

(14) Completing developments in phases. (a) If a development is constructed in phases or stages in accordance with this section, then, subject to subsection (c) below, the provisions of § 14-204(2) (no occupancy, use, or sale of lots until requirements fulfilled) shall apply to each phase as if it were the entire development.

(b) As a prerequisite to taking advantage of the provisions of subsection (a) above, the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this chapter that will be satisfied with respect to each phase or stage.

(c) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one (1) or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit.

(15) Expiration of permits. (a) Zoning, special exception, and sign permits shall expire automatically if, within one (1) year after the issuance of such permits:

(i) The use authorized by such permit has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or

(ii) Less than ten percent (10%) of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permit has been completed on the site. With respect to phased development, this requirement shall apply only to the first phase.

(b) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one (1) year, then the permit or approval authorizing such work shall immediately expire.

(c) The permit-issuing authority may extend for a period up to six (6) months the date when a permit would otherwise expire pursuant to subsections (a) or (b) if it concludes that:

(i) The permit or approval has not yet expired;

(ii) The permit or approval recipient has proceeded with due diligence and in good faith; and

(iii) Conditions have not changed so substantially as to warrant a new application.

Successive extensions may be granted for periods up to six (6) months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(d) For purposes of this section, the permit within the jurisdiction of the board of zoning appeals is issued when such board votes to approve the application and issue the permit. A permit within the jurisdiction of the zoning administrator is issued when the earlier of the following takes place:

(i) A copy of the fully executed permit is delivered to the permit recipient and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant; or

(ii) The zoning administrator notifies the permit or approval applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required under applicable state law.

(16) Effect of permit on successors and assigns. Zoning, special exception, and sign permits authorize the permitted to make use of land and structures in a particular way. Such permits are transferable. However, so long

as the land or structures, or any portion thereof, covered under a permit continues to be used for the purposes for which the permit was granted, then:

(a) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and

(b) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained but also with respect to persons who subsequently obtain any interest in all or part of the covered property.

(17) Amendments to and modifications of permits. (a) Insignificant deviations from any permit issued by the board of zoning appeals or the administrator are permissible and the administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(b) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, "minor design modifications or changes" are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(c) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the administrator or board of zoning appeals, new conditions may be imposed. However, the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

(d) The administrator shall determine whether amendments to, and modifications of, permits fall within the categories set forth above in subsections (a), (b), and (c) above.

(e) A developer requesting approval of changes shall submit a written request for such approval to the administrator, and that request shall identify the changes. Approval must be given in writing.

(18) Reconsideration of board action. (a) Whenever the board of zoning appeals disapproves an application for a special exception permit or a variance on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the BZA at a later time unless the applicant clearly demonstrates that:

(i) Circumstances affecting the property that is the subject of the application have substantially changed; or

(ii) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the administrator within sixty (60) days of the decision. Filing a request to be reheard does not toll the period for appeal in chancery court.

(b) Notwithstanding subsection (a) above, the board of zoning appeals may at any time consider a new application affecting the same property as an application previously denied. A new application is one (1) that differs in some substantial way in the judgment of the BZA from the one (1) previously considered.

(19) Applications to be processed expeditiously. Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the city shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this chapter.

(20) Maintenance of common areas, improvements, and facilities. The recipient of any zoning, special exception, or sign permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this chapter or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrated, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

Responsibilities described herein may be assigned to a homeowners' association or like group when documents are provided to the appropriate board, which documents assure the existence and financial capacity of the responsible entity. (1999 Code, § 14-204)

14-205. Appeals, variances, interpretations. (1) Appeals. (a) An appeal from any final order or decision of the administrator may be taken to the board of zoning appeals by any person aggrieved. An appeal is taken by filing with the administrator and the board of zoning appeals a written notice of appeal specifying the grounds of appeal. A notice of appeal shall be considered filed with the administrator and the board of zoning appeals when delivered to the planning department, and the date and time of filing shall be entered on the notice by the planning staff.

(b) An appeal must be filed within thirty (30) days after the date of the decision of order appealed from.

(c) Whenever an appeal is filed, the administrator shall transmit in a timely manner to the board of zoning appeals all the documents relating to the action appealed from.

(d) An appeal stays all actions by the administrator seeking enforcement of, or compliance with, the order or decision appealed from, unless the administrator certifies to the board of zoning appeals that (due to facts stated in the certificate) a stay would, in his opinion, cause imminent danger or irreparable harm to life or property. In such case, proceedings shall not be stayed except by order of the board of zoning appeals or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrator.

(e) The board of zoning appeals may reverse or affirm (in whole or in part) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken. Further, the board shall state in writing the reasons supporting the change which they have made in the original order, requirement, or decision.

(2) Variances. (a) An application for a variance shall be submitted to the board of zoning appeals by filing a copy of the application with the administrator in the planning department. Applications shall be handled as prescribed in § 14-203.

(b) A variance may be granted by the board of zoning appeals if it concludes the strict enforcement of the provisions of the chapter would result in practical difficulties (related to the configuration of the land) or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:

(i) If the applicant complies strictly with the provisions of the chapter he can make no reasonable use of this property.

(ii) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public.

(iii) The hardship relates to the applicant's land, rather than personal circumstances.

(iv) The hardship is unique, or nearly so, rather than one shared by many surrounding properties.

(v) The hardship is not the result in the extension of a nonconforming situation in violation of this chapter and would not authorize the initiation of a nonconforming use of land.

(c) In granting variances, the board of zoning appeals may impose such reasonable conditions as will ensure that the use of the

property to which the variances applies will be as compatible as practicable with the surrounding properties.

(d) A variance may be issued for an indefinite duration or for a specified duration only.

(e) The nature of the variance and any conditions attached to it shall be entered on the face of the permit required for construction or occupancy of the building. All such conditions are enforceable in the same manner as any other applicable requirement of this chapter.

(3) Interpretations. (a) The board of zoning appeals is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the zoning administrator, they shall be handled as provided in subsection (1) above.

(b) An application for a map interpretation shall be submitted to the board of zoning appeals by filing a copy of the application with the administrator of the planning department. The application shall contain sufficient information to enable the board to make necessary interpretation.

(c) Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(i) Boundaries indicated as approximately following the centerline of alleys, streets, highways, streams, or railroads shall be construed to follow such centerline.

(ii) Boundaries indicated as approximately following lot lines, city limits or extraterritorial boundary lines shall be construed as following such lines, limits or boundaries.

(iii) Boundaries indicated as following streams and banks shall be construed to follow such watercourses, and in the event of change in the watercourse shall be construed as following such shorelines.

(iv) Where a district boundary divides a lot or where distances are not specifically indicated on the official zoning map, the boundary shall be determined by measurement, using the scale of the official zoning map.

(v) Where a street or alley is hereafter officially vacated or abandoned, the regulations applicable to each such parcel of abutting property shall apply to that portion of street or alley added thereto by virtue of such vacation or abandonment.

(d) Interpretations of the location of floodway and floodplain boundary lines may be made by the administrator subject to appeal to the board of zoning appeals.

(4) Requests to be heard expeditiously. The board of zoning appeals shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow

regularly established agenda procedures, provide notice, and obtain the necessary information to make sound decisions.

(5) Burden of proof in appeals and variances. (a) When an appeal is taken to the board of zoning appeals in accordance with subsection (1) above, the applicant shall have the initial burden of presenting to the board sufficient evidence and argument to justify a change in the order or decision from which the appeal is taken. The burden of presenting evidence is on the appellant who shall also have the burden of persuasion.

(b) The burden of presenting evidence sufficient to allow the board of zoning appeals to reach the conclusions set forth in subsection (2)(b) above, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

(6) Board action on appeals and variances. (a) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons of findings or facts that support the motion. If a motion to reverse or modify is not made or fails to receive the majority vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order. This motion is adopted as the board's decision if supported by a majority of a board's membership (excluding vacant seats).

(b) Before granting a variance, the board must take a vote and vote affirmatively on the five (5) required findings stated in subsection (2)(b) of this section. Insofar as practicable, a motion to make an affirmative finding on the requirements set forth in subsection (2)(b) of this section shall include a statement of the specific reasons or findings of fact supporting such motion.

(c) A motion to deny a variance may be made on the basis that any one (1) or more of the five (5) criteria set forth in subsection (2)(b) of this section are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the board's decision if supported by a majority of the board's membership (excluding vacant seats). (1999 Code, § 14-205)

14-206. Hearing procedures for appeals and applications.

(1) Hearing required on appeals and applications. (a) Before making a decision on an appeal or an application for a variance, special exception, or a petition from the planning staff to revoke a special exception permit, the board of zoning appeals shall hold a hearing on the appeal or application.

(b) Subject to subsection (c), the hearing shall be open to the public and all persons interested in the outcome of the appeal or

application shall be given an opportunity to present evidence and arguments, and ask questions of persons who testify.

(c) The board of zoning appeals may place reasonable and equitable limitation on the presentations of evidence and arguments so that the matter at issue may be heard and decided without undue delay.

(d) The BZA may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six (6) weeks or more elapses between hearing dates.

(2) Notice of hearing. The administrator shall give notice of any hearing required by subsection (1) above as follows:

(a) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice not later than five (5) days before the hearing.

(b) Notice shall be given to neighboring property owners and other interested parties by publishing a notice one (1) time in a newspaper having general circulation in the area not less than five (5), nor more than fifteen (15), days prior to the hearing.

(c) The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

(3) Evidence. (a) The provisions of this section apply to all hearings for which a notice is required by subsection (1) above.

(b) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal shall be based upon material evidence, but not necessarily on evidence that would be admissible in a court of law.

(4) Modification of application at hearing. (a) In response to questions or comments by persons appearing at the hearing, or to suggestions or recommendations by the board of zoning appeals, the applicant may agree to modify his application, including the plans and specifications submitted.

(b) Unless such modifications are so substantial or extensive that the board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

(5) Record. (a) A tape recording may be made of all hearings required by subsection (1) above, and such recordings shall be kept for at least two

(2) years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.

(b) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the city for at least two (2) years.

(6) Written decision. (a) Any decision made by the board of zoning appeals regarding an appeal, variance, or issuance or revocation of a special exception shall be reduced to writing and provided to the applicant or appellant and all other persons who make a written request for a copy.

(b) In addition to a statement of the board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the board's findings and conclusions, as well as supporting reasons or facts, whenever this chapter requires the same as a prerequisite to taking action.

(7) City council action regarding annexation and zoning matters. Upon request of an interested party, an annexation or zoning matter which has been recommended or not recommended by the planning commission will be placed on the next city council agenda provided the publish date for the public hearing notice can be met. If the publish date cannot be met, then the item will be placed on the following month's city council agenda. The request for a decision by city council on such annexation or zoning matter must be in writing to the city manager's office and must be made within sixty (60) days of the planning commission's decision. (1999 Code, § 14-206)

14-207. Enforcement and review. (1) Complaints regarding violations. Whenever the administrator receives a written, signed complaint alleging a violation of this chapter he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been, or will be, taken.

(2) Persons liable. The owner, tenant, or occupant of any building or land, or part thereof, and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

(3) Procedures upon discovery of violations. (a) If the administrator finds that this chapter is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the administrator's discretion.

(b) The final written notice (and the initial written notice may be the final notice) shall state what action the administrator intends to

take if the violation is not corrected and shall advise that the administrator's decision or order may be appealed to the board of zoning appeals.

(c) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety, or welfare, the administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in subsection (5) of this section.

(4) Penalties and remedies for violations. (a) Any person violating any provision of this section shall be guilty of a misdemeanor, punishable as other misdemeanors as provided by laws. Each day such violation shall continue shall constitute a separate offense. In case any building or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building structure or land use in violation of this section, the building official, in addition to other remedies may institute injunction, mandamus, or other appropriate action or procedure to prevent the occupancy or such building, structure or land.

(b) Any act constituting a violation of the provisions of this section or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special exception permits, shall also subject the offender to a civil penalty of fifty dollars ($50.00) per day per violation. If the offender fails to pay this penalty within ten (10) days after being cited for a violation, the penalty may be recovered by the city in a civil action in the nature of debt. Any one (1), all, or combination of the foregoing penalties and remedies may be used to enforce this chapter. Violations of this section may be heard by the administrative hearing officer in accordance with *Tennessee Code Annotated*, §§ 6-54-1001 to 6-54-1018, and as established in title 12, chapter 9 of the Maryville Municipal Code.

(c) This section may also be enforced by any appropriate equitable action.

(5) Permit revocation. (a) A zoning, sign, or special exception permit may be revoked by the permit-issuing authority (in accordance to the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this section or any additional requirements lawfully imposed by the issuer of the permit.

(b) Before a special exception permit may be revoked, notice shall be provided and a hearing held before the board of zoning appeals as set forth in § 14-206. The notice shall inform the permit recipient of the alleged grounds for the revocation.

(i) The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in subsection (a)

above shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.

(ii) A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

(c) Before a zoning or sign permit may be revoked, the administrator shall give the permit recipient ten (10) days' notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and/or his right to obtain an informal hearing on the allegations. If the permit is revoked, the administrator shall provide to the permitted a written statement of the decision and the reasons therefor.

(d) No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, or special exception permit after such permit has been revoked in accordance with this section.

(6) Judicial review. Every final decision of the board of zoning appeals shall be subject to review by the Chancery Court of Blount County or the Blount County Circuit Court, Equity Division by proceedings in the nature of certiorari. (Ord. #2019-26, Dec. 2019)

14-208. Nonconforming situations. (1) Definitions. Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

(a) "Effective date of this ordinance." Whenever this section refers to the effective date of this ordinance, the reference shall be deemed to include the effective date of any amendments to this chapter if the amendment, rather than this chapter as originally adopted, creates a nonconforming situation.

(b) "Expenditure." A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.

(c) "Nonconforming lot." A lot existing at the effective date of this chapter that does not meet the minimum area requirement of the district in which the lot is located.

(d) "Nonconforming project." Any structure, development, or undertaking that is incomplete at the effective date of this chapter set forth in this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

(e) "Nonconforming situation." A situation that occurs when, on the effective date of this chapter set forth in this chapter, an existing lot or structure, or use of an existing lot or structure, does not conform to

one (1) or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this chapter or because land or buildings are used for purposes made unlawful by this chapter. Nonconforming signs shall not be regarded as nonconforming situations for purposes of this section but shall be governed by the provisions of this chapter specifically addressing signs.

(f) "Nonconforming use." A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. The term also refers to the activity that constitutes the use made of the property.

(2) Continuation of nonconforming situations and completion of nonconforming projects. (a) Unless otherwise specifically provided by the provisions of this chapter and subject to the restrictions and qualifications set forth in subsections (3) through (8), nonconforming situations that were otherwise lawful on the effective date of the provisions of this chapter may be continued.

(b) Nonconforming projects may be completed only in accordance with the provisions of subsection (8) below.

(3) Nonconforming lots. (a) When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in § 14-214, then the lot may be used as proposed just as if it were conforming. However, no use (e.g., a two (2) family residence) that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a nonconforming lot.

(b) When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements cannot reasonably be complied with, then the entity authorized by this chapter to issue a permit for the proposed use may allow deviations from the applicable setback requirements if it finds that:

(i) The property cannot reasonably be developed for the use proposed without such deviations;

(ii) These deviations are necessitated by the size or shape of the nonconforming lot; and

(iii) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health and safety.

(c) For purposes of subsection (b) above, compliance with applicable building setback requirements is not reasonably possible if a

building that serves the minimal needs of the use proposed for the nonconforming lot cannot practically be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

(d) This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A change in use of a developed nonconforming lot may be accomplished in accordance with subsection (6) below.

(e) Subject to the following provision, if, on the date this section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one (1) or more other undeveloped lots under the same ownership then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within five hundred feet (500') of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

(4) Extension or enlargement of nonconforming situations. (a) Subject to provisions in state law regarding expansion of nonconforming uses found in *Tennessee Code Annotated*, § 13-7-208, except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

(i) An increase in the total amount of space devoted to a nonconforming use; or

(ii) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements.

(b) Subject to subsection (d) below, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this chapter, was clearly designed or arranged to accommodate such use. However, subject to § 14-208(8) (which authorized the completion of nonconforming projects in certain circumstances); a nonconforming use may not be extended to additional buildings or to land outside the original building.

(c) Subject to § 14-208(8), a nonconforming use of open land may not be extended to cover more land than was occupied by that use

when it became nonconforming, except that a use that involves the removal of natural materials form the lot (e.g., a quarry) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if ten percent (10%) or more of the earth products had already been removed on the effective date of this chapter.

(d) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other provisions of this section occur.

(e) Notwithstanding subsection (a) above, any structure used for single-family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. This subsection is subject to the limitations stated in § 14-208(7).

(f) (i) Notwithstanding subsection (a), whenever:

(A) There exists a lot with one (1) or more structures on it;

(B) A change in use that does not involve any enlargement of a structure is proposed for such lot; and

(C) The parking or loading requirements of this chapter that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation.

(ii) However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking if:

(A) Parking requirements cannot be satisfied on the lot with respect to which the permit is required; and

(B) Such satellite parking is reasonably available. If such satellite parking is not reasonably available at the time the zoning or special exception permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the permit.

(5) Repair, maintenance and reconstruction. (a) Minor repairs to and routine maintenance of property where nonconforming situations exist or permitted or encouraged. Major renovation, i.e., work estimated to cost more than twenty-five percent (25%) of the assessed value of the structure to be renovated (on the most recent tax assessment) may be done only in accordance with the provisions of subsection (b) herein.

(b) If a structure located on a lot where a nonconforming situation exists with damage to an extent that the cost of repair or replacement would exceed twenty-five percent (25%) of the assessed value of the damaged structure (on the most recent tax assessment) then the damaged structure may be repaired or replaced only in accordance with the zoning permit issued pursuant to this section and in compliance with existing zoning and applicable codes. This subsection does not apply to structures used for single-family residential purposes which structures may be reconstructed pursuant to a zoning permit just as they may be enlarged or replaced as provided in subsection (4)(e). This subsection does not apply to duplex and multi-family structures in the Oak Park Historic District Zone XVI. This subsection further does not apply to duplex and multi-family residential structures in the College Hills Historic District Zone XIII where such duplex or multi-family residential structures were originally designed and constructed for duplex or multi-family use and where such duplex or multi-family use has been continuous since the time of construction. In such case, a duplex in Zone XIII that was originally designed or constructed as a duplex could be rebuilt, repaired or replaced as a duplex. Likewise, a multi-family residential structure in Zone XIII originally designed or constructed as a multi-family structure could be rebuilt, repaired or replaced as a multi-family structure.

(c) For purposes of subsections (a) and (b):

(i) The cost of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.

(ii) The cost of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of subsections (a) or (b) by doing such work on a piecemeal basis.

(d) The administrator shall issue a permit authorized by this section if he finds that, in completing the renovation, repair, or replacement work:

(i) No violation of subsection (4) will occur; and

(ii) The permitted will comply to the extent reasonably possible with all provisions of this chapter applicable to the existing use (except that the permitted shall not lose his right to continue a nonconforming use).

Compliance with a requirement of this chapter is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

(6) Change in use of property where a nonconforming situation exists.

(a) A change in use of property (where a nonconforming situation exists) that is sufficiently substantial to require a new zoning or special exception permit may not be made except in accordance with subsections (b) through (d). However, this requirement shall not apply if only a sign permit is needed.

(b) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this chapter applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this chapter is achieved, the property may not revert to its nonconforming status.

(c) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this chapter applicable to that use cannot reasonably be complied with, then the change is permissible if the entity authorized by this chapter to issue a permit for that particular use (the administrator, board of zoning appeals, or council) issues a permit authorizing the change. This permit may be issued if the permit-issuing authority finds, in addition to any other findings that may be required by this chapter, that:

(i) The intended change will not result in a violation of subsection (4); and

(ii) All of the applicable requirements of this chapter that can reasonably be complied with will be complied with. Compliance with a requirement of this chapter is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And in case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.

(d) If the intended change in use is to another principal use that is also nonconforming, then the change is permissible if the entity authorized by this chapter to issue a permit for that particular use (administrator, board of zoning appeals, or council) issues a permit authorizing the change. The permit-issuing authority may issue the permit if it finds, in addition to other findings that may be required by this chapter, that:

(i) The use requested is one that is permissible in some zoning districts with either a zoning or special exception permit;

(ii) All of the conditions applicable to the permit authorized in subsection (c) of this section are satisfied; and

(iii) The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for.

(7) Abandonment and discontinuance of nonconforming situations.

(a) Except where *Tennessee Code Annotated*, § 13-7-208(g), requires otherwise, when a nonconforming use is:

(i) Discontinued for a consecutive period of one hundred eighty (180) days; or

(ii) Discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes.

(b) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the regulations applicable to the pre-existing use unless the entity with authority to issue a permit for the intended use issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. This permit may be issued if the permit-issuing authority finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The permit shall specify which nonconformities need not be correct.

(c) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. If a nonconforming use is maintained in conjunction with a conforming use, the discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

(d) When a structure or operation made nonconforming by this chapter is vacant or discontinued at the effective date of this chapter, the one hundred eighty (180) day period for purposes of this section begins to run on the effective date of this chapter.

(8) Completion of nonconforming projects. (a) All nonconforming projects on which construction was begun at least one hundred eighty (180) days before the effective date of this chapter as well as all nonconforming projects that are at least ten percent (10%) completed in terms of the total expected cost of the project on the effective date of the provisions of this chapter may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unprovoked and unexpired. If a development is designed to be completed in stages, this subsection shall apply only to the particular phase under construction.

(b) Except as provided in subsection (a) above, all work on any nonconforming project shall cease on the effective date of this chapter comprising this section, and all permits previously issued for work on nonconforming projects may begin or may be continued only pursuant to a zoning, special exception, or sign permit issued in accordance with this chapter by the individual or board authorized by this chapter to issue permits for the type of development proposed. The permit-issuing authority shall issue such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land use law as it existed before the effective date of this chapter and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the permit-issuing authority shall be guided by the following, as well as other relevant considerations:

(i) All expenditures made to obtain or pursuant to a validly issued and unprovoked building, zoning, sign, or special exception permit shall be considered as evidence of reasonable reliance on the land use law that existed before this chapter became effective.

(ii) Except as provided in subsection (b)(i) above, no expenditures made more than one hundred eighty (180) days before the effective date of this chapter may be considered as evidence of reasonable reliance on the land use law that existed before this chapter became effective. An expenditure is made at the time a party incurs a binding obligation to make that expenditure.

(iii) To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not

be considered prejudiced by having made some expenditure to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a sale of the property.

(iv) To the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a party shall not be considered prejudiced by having made such expenditures.

(v) An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of:

(A) The total estimated cost of the proposed project; and

(B) The ordinary business practices of the developer.

(vi) A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land use law affecting the proposed development site could not be attributed to him.

(vii) Even though a person had actual knowledge of a proposed change in the land use law affecting a development site, the permit-issuing authority may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. The permit-issuing authority may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that:

(A) At the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development; and

(B) The developer had legitimate business reasons for making expenditures.

(c) When it appears from the developer's plans or otherwise that a project was intended to be, or reasonably could be, completed in phases, stages, segments, or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under subsection (b) above. In addition to the matters and subject to the guidelines set forth in subsections (i) through (vi) of subsection (b) above, the permit-issuing authority shall, in determining whether a developer would be unreasonably prejudiced if not allowed to complete phases or segments

of a nonconforming project, consider the following in addition to other relevant factors:

(i) Whether any plans prepared or approved regarding uncompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural, or engineering work.

(ii) Whether any improvements, such as streets or utilities, have been installed in phases not yet completed.

(iii) Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location or such a scale, in anticipation of connection to or interrelationship with approved but uncompleted phases are constructed in conformity with existing regulations.

(d) The permit-issuing authority shall not consider any application for the permit authorized by subsection (b) above that is submitted more than sixty (60) days after the effective date of this chapter. The permit-issuing authority may waive this requirement for good cause shown, but in no case may extend the application deadline beyond one (1) year.

(e) The administrator shall send copies of this section to the persons listed as owner for tax purposed (and developers, if different from the owners) of all properties in regard to which a nonconforming project is otherwise known to be in some stage of development. This notice shall be sent by certified mail not less than fifteen (15) days before the effective date of the provisions of this chapter.

(f) The permit-issuing authority shall establish expedited procedures for hearing applications for permits under this section. These applications shall be heard, whenever possible, before the effective date of the provisions of this chapter, so that construction work is not needlessly interrupted. (1999 Code, § 14-208)

14-209. Zoning districts and zoning map. (1) Zoning districts - establishment of districts. (a) The following zoning districts are hereby established:

District I: Residential District: The land use and intensity of the area is low density residential. Some mix of building types may be included, e.g., two (2) family, three (3) family and four (4) family dwelling units. Supplementary and complementary uses may exist in the area, such as recreation areas, schools, churches, and community centers.

District II: Business and Transportation District: The land uses in the area include commercial (wholesale and retail), office, highway-oriented commercial (e.g., service stations, convenience stores), light industrial (e.g., assembly, light manufacturing),

public/institutional (e.g., municipal buildings, recreational facilities), and residential (e.g., medium and high density). Liquor stores are permitted in this district. Intensity of use is moderate to high, with impacts on adjacent areas being of primary concern. Body piercing and tattoo artists are permitted uses in this zoning district.

District III: Environmental Conservation District: This includes land with low development capability (e.g., flood hazard areas, steep slopes). Uses would include those with low to moderate development intensity (e.g., low density estate residential, recreation/open space, public/semi-public).

District IV: Central Community District: This includes the Central Business District and the immediately surrounding area. Uses include office, commercial, high density, residential, and public. There is an allowed mix of land uses, and the intensity of the development is high.

District V: Single-Family District: This includes areas where natural factors such as steep slopes, high erosion potential, inadequate streets and inadequate utilities restrict high density development within the corporate limits. The land use and intensity of the area is low density single-family detached units.

District VI: Office District: The land uses permitted in the office district are low density residential, professional and business offices and personal care services. The district is designed to accommodate a mixture of compatible professional and business offices, residential uses, personal care uses and services that neither generate large volumes of traffic nor need great amounts of off-street parking. It is the intent of the district to provide ample room and opportunity for all businesses without adversely impacting residential uses within the district or adjoining it. In addition, a tea room/café use may be an acceptable use in existing structures in this zone subject to approval of a special exception by the board of zoning appeals. The design standards that will be considered for review of tearoom/café are set forth in § 14-211(10).

District VII: Neighborhood District: The land uses in the neighborhood district are low density residential, professional and office type uses with limited commercial and retail operations as permitted uses. These uses are intended to be designed to minimize disruption of traffic flows and negative impact on adjacent residential uses. The district excludes all activities which generate large volumes of traffic need for great amounts of off-street parking, or which would have adverse impacts on the residential sector of the community or residential uses allowed within the district.

District VIII: Central Business District: (Designated downtown zoning district subject to design review and "use on review") The Central Business District is the civic and cultural center of Maryville. In order to maintain the appropriate and expected atmosphere of a traditional downtown, it is very important to provide an intimate scale of the urban spaces. The level of detail must be sufficiently matched by new developments. Size and quantity of fenestration must be maintained. Ornate cornices and other features should be maintained and replicated. New buildings should be designed in the base and capital streetscape style typical of the older shops. New elements such as colorful canvas awnings or theme lights can be added to the facades to create a contemporary visual unity. Design of these elements must be carefully detailed to ensure common themes. The following regulations will encourage the redevelopment and expansion of a traditional, thriving, and charming downtown Maryville. Liquor stores are permitted in this district. All provisions set forth regarding this district are in § 14-209(4).

District IX: Washington Street Commercial Corridor: (Designated downtown zoning district subject to design review and "use on review.") The Washington Street Corridor is often the impression that is left of downtown and the entire City of Maryville by thousands of motorists on their way to the Smoky Mountains. To encourage a return to a more urban setting and away from a typical "suburban commercial strip," Washington Street's design standards maintain density and close setbacks to the street, provide smaller signs, create streetscape improvements and require prototype facilities (fast food, fuel stations, etc.) to alter their designs to fit the character that downtown Maryville is striving for. Liquor stores are permitted in this district. All provisions set forth regarding this district are in § 14-209(5).

District X: Office Transition Zone: (Designated downtown zoning district subject to design review and "use on review") Serving as the southern fringe of downtown Maryville, the Office Transition Zone provides mixed use opportunities in older homes and smaller scale commercial structures. The zone's intent is to maintain and establish the charm of the older homes and businesses, maintain the existing small town feel by requiring lower density developments, and preserve the human scale of the area. All provisions set forth regarding this district are in § 14-209(6).

District XI: Heritage Development Zone: (Designated downtown zoning district subject to design review and "use on review") The Heritage Development Zone's proximity to the original site of Ft. Craig, the Central Business District, and its location on the

greenbelt shall provide opportunities for festivals, festive retail, cultural and heritage-related uses such as museums, craft shops, antiques, or any appropriate use that will attract locals and tourists to the area. All provisions set forth regarding this district are in § 14-209(7).

District XII: Central Business District Support Zone: (Designated downtown zoning district subject to design review and "use on review.") The Central Business District Support Zone is the zone of contrast between the urban intimacy on Harper Avenue and the open spaces of the north side of the greenbelt. This zone takes full advantage of the benefits of the greenbelt by providing mixed use development along its periphery. Businesses locating in the CBD Support Zone are encouraged to spill their services out onto the pathways and open areas of the greenbelt. Liquor stores are permitted in this district. All provisions set forth regarding this district are in § 14-209(8).

District XIII: College Hill Historic District:[1] The College Hill Historic District has the largest concentration of extant historic structures in the City of Maryville. Since the 1940s, new construction has been limited in the district and it retains much of its original character. In order to preserve and enhance the integrity of this important area of Maryville, design guidelines specific to this district are in place to ensure historically appropriate and compatible construction. Land use controls allow only single-family residential uses, and prohibit further conversion of homes into duplexes or multiplexes. All provisions set forth regarding this district are in § 14-209(9).

District XIV: College Hill Historic Overlay District: The College Hill Historic Overlay Zone has been created and the "Design Guidelines for the College Hill Historic District" in order to preserve the historic character through the application of design guidelines. Any construction requiring a building permit must apply for a certificate of appropriateness at the planning department and have their building plans reviewed by the historic zoning commission. All provisions set forth regarding this district are in § 14-209(10).

District XV: High Intensity Commercial District: Liquor stores are permitted in this district. All provisions set forth regarding this district are in § 14-209(11).

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[1]Historic Zoning Regulations (Required, Vol. I, and Suggested Regulations, Vol. II, Ord. #2009-05) are available in the office of the city recorder.

District XVI: Oak Park Historic District: The Oak Park Historic District has a large concentration of extant historic structures in the City of Maryville. Since the 1940s, new construction has been limited in the district and it retains much of its original character. In order to preserve and enhance the integrity of this important area of Maryville, design guidelines specific to this district are in place to ensure historically appropriate and compatible construction. All provisions set forth regarding this district are in § 14-209(12).

District XVII: Oak Park Historic Overlay Zone: The Oak Park Historic Overlay Zone has been created and the "Design Guidelines for the Oak Park Historic District" in order to preserve the historic character through the application of design guidelines. Any construction requiring a building permit must apply for a certificate of appropriateness at the planning department and have their building plans reviewed by the historic zoning commission. All provisions set forth regarding this district are in § 14-209(13).

District XIX: Estate Zone: The Estate Zone is the most restrictive residential district intended to be used for single-family residential areas with low population densities. This district is created and intended to be protected from the encroachment of uses not performing a function necessary to the single-family residential environment. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and accessory facilities found within this district. All provisions set forth regarding this district are in § 14-209(14).

District XX: High Density Residential: This district is composed of high density residential rental, owner, occupied or a combination of both uses within the city located along arterials, and with certain open space and development standards. The regulations for this district are designed to protect the essential characteristics of the district to promote and encourage a suitable environment for family life and to permit certain commercial uses associated with this type of increased density. To these ends, retail activity is limited and this district is protected against encroachment of general commercial or industrial uses while the regulations permit high density development consistent with concentrations of persons. Attached apartments and condominiums are permitted along with accessory commercial uses conforming to the intent of the district. All provisions set forth regarding this district are in § 14-209(15).

District XX: Industrial: The Industrial Zone District is established and designed to provide areas in which the principle

use of land is for manufacturing, processing, assembly, fabrication of materials, and warehousing. The general goals of the district are as follows: to locate and develop industrial uses in conformance with Maryville's master plan; to provide industrial areas and locations that will be economically, functionally, and aesthetically beneficial to both the residents and businesses of the community; and, to encourage land uses that are associated with industrial facilities and operations. All provisions set forth regarding this district are in § 14-209(16).

District XXI: Institutional. The Institutional Zone is established and designed to provide an area in which the principal use of land is for traditional academic and educational institutions and for complimentary and accessory uses associated with a college campus and environment. The general goals of this district are to allow development on a traditional college campus and to encourage uses specific to a learning environment.

District XXII: High Intensity Retail District: The High Intensity Retail (H.I.R.) District is established to support and encourage concentrated retail development along major road corridors where most types of public infrastructure and services are already present. Shopping and dining are among the main activities in this district, and a primary goal for this zone is to stimulate retail-oriented economic activity and the accompanying generation of sales tax revenues. Mixed use developments and certain non-retail uses that are compatible with the retail uses may also be allowed in the district, subject to specific locational criteria.

(b) These districts are established for the purposes of:

(i) Implementing the Maryville Comprehensive Plan;

(ii) Defining specific areas of the City of Maryville, each requiring different standards of development to meet different circumstances present within the district; and

(iii) Serving the purposes, objectives and intent of this chapter as outlined in the introduction.

(2) Zoning districts - table of allowable uses. The table of allowable uses which follows lists those uses allowable or prohibited in each district. The list includes general categories of land use. Categories of allowable land uses include:

(a) Those uses which are allowable by right with no additional requirement.

(b) Those uses which may be considered as special exceptions after review of an impact assessment, and imposition of additional requirements for development.

(c) Those uses which are prohibited.

(3) Zoning districts - impact overlay districts. (a) The planning commission may recommend, and the board of zoning appeals may approve as a special exception, the establishment of one (1) or more Impact Overlay Districts. The purpose of the district(s) thus established is to address in a more specific way the potential adverse impact of proposed development on natural conditions and surrounding land uses, including transportation facilities.

(b) The following criteria shall be employed by the administrator in determining what development proposals are to be administered as Impact Overlay Districts.

CRITERIA FOR IMPACT OVERLAY DISTRICT

PROJECT AREA:	Ten (10) acres or more in a single site plan and/or subdivision plat.
TRAFFIC DEMAND:	Generation of an average number of trips per day (based on ITE standards) which will result in a traffic demand in excess of the present functional capacity of local and/or collector roads serving the project. Present traffic demand will be established using ITE procedures and/or using ADT data provided by either the Tennessee Department of Transportation or the city director of engineering and public works.
TOTAL DWELLING UNITS:	Sixty (60) or more dwelling units. (Residential uses)
TOTAL FLOOR AREA: (Commercial uses)	Ten thousand (10,000) square feet of gross leaseable area.
INCREASE IN DENSITY:	(Proposed vs. existing): Twenty-five percent (25%) or greater increase over the existing average development density within a one thousand-foot (1,000') radius of the site.
PUBLIC FACILITIES:	Proposed development which creates a demand exceeding the present capacity of any of the public facilities serving that development. (Note: If an improved facility is programmed/budgeted, the city must take into

consideration the timing of that improvement and the proposed timing of the development.)

(c) Forms to be used in recording project data and in determining overall project impact(s) will be available in the planning department office.

(d) The procedure for review of an Impact Overlay District development proposal shall be that prescribed for special exception permits.

(e) The following are hereby established as Impact Overlay Districts, meaning that these districts are overlaid upon other districts and the land so encumbered may be used in a manner permitted in the underlying district only if, and to the extent, such use is also permitted in the Impact Overlay District.

(i) The Floodway and Floodplain District;

(ii) The Greenbelt District; and

(iii) The Parkway District, subject to the following:

(A) The Parkway District is established as an Impact Overlay District in order to protect the natural beauty of approaches to the Great Smoky Mountains and other scenic attractions of the community and its environs. It is intended that uses of the underlying districts be developed at such scale and in such a manner as to blend unobtrusively with nature thereby enhancing the scenic attraction of the district and of Blount County. Provisions of the district are intended to expedite the free flow of traffic and reduce the hazards arising from unnecessary points of ingress and egress and cluttered roadside development.

(B) Parkway District boundaries shall be established on the official zoning map, and may include any highway which is deemed appropriate and its adjacent properties, to a distance of generally not more than one thousand feet (1,000') from the nearest edge of pavement of the highway. The Maryville City Council may apply the Parkway District to any highway corridor upon concluding that:

(1) The highway corridor has scenic qualities and natural beauty that should be preserved and protected;

(2) A major purpose of the highway is to carry through traffic; and

(3) Development along the highway in the absence of Parkway District provisions could have an adverse impact on its level of service, increase danger

and/or congestion in the street, impair the public health, safety, convenience, welfare and/or impede the maintenance or creation of a convenient, attractive, and harmonious community.

(C) All uses are subject to the following conditions:

(1) No structure may exceed thirty-five feet (35') in height.

(2) A site plan is required to be submitted for review and approval for the development of any parcel within the Parkway District. Planning commission review and approval shall also be required for any site plan for the development of any parcel within the Parkway District. A site plan shall be submitted prior to development. The purpose of the site plan review is to ensure that all development in the corridor furthers the purpose and intentions of the Parkway District. Quality of design, preservation of open space, provision of buffers and plantings, provision of adequate parking well separated from the roadway, and minimization of direct access points to the highway shall be major considerations of the planning commission in their review of the site plan.

(3) The minimum distance as measured from the center of the access point between all driveways, curb cuts, or access points of any kind onto the highway shall be as follows:

Highway speed limit	Minimum spacing of access points
Under 35 mph	150 feet
35-50 mph	250 feet
55 mph	400 feet

The minimum distance between all driveways, curb cuts, or access points of any kind onto a service road, frontage road, or unified access road to the main highway shall not be less than one hundred feet (100').

The distance between adjacent one-way driveways with the inbound drive upstream from the outbound drive shall not be less than one hundred feet (100').

(4) For property with an existing access point where the speed limit is at least fifty-five (55)

miles per hour, staff may reduce the required minimum spacing for a secondary access point. To qualify for this reduction, the lot must have road frontage of at least two hundred feet (200') and the need for the secondary access be demonstrated through a traffic impact study prepared and sealed by a qualified engineer. The secondary access point shall be placed at the greatest distance feasible from the existing access as determined by the traffic impact study. A right-in/right-out shall be the preferred secondary access point unless an existing median cut or traffic signal is available at the proposed location of the access point.

(5) For existing lots of record along the Parkway District which cannot meet the required spacing of access points, the board of zoning appeals may grant a special exception to allow an access point for the lot. In determining whether to grant the special exception permit, the applicant shall provide the following evidence to the board, and the board shall affirm all of the following:

(a) There is no current access for the property.

(b) No joint easement or frontage road exists which the applicant can utilize.

(c) The applicant has made all reasonable attempts to comply with the requirements of the section including, but not limited to, negotiating with adjoining property owners for a joint access easement or use of a frontage road.

(d) The situation was not created by the applicant and is one that predates the adoption of the Parkway District or predates the applicant's ownership of the property.

(e) The applicant does not own adjoining lots which could be utilized to meet the requirements of the section.

(f) The proposed access point is located so as to comply as much as practicable with the spacing requirements of the section.

(g) The Tennessee Department of Transportation has reviewed the proposed access point and will grant a permit for the

access at the location proposed by the applicant.

(6) For each parcel which fronts onto the highway right-of-way, the minimum lot frontage shall be not less than one hundred feet (100').

(7) Individual parcels which front onto the highway right-of-way are permitted to construct one (1) temporary driveway onto the highway until joint driveways or alternate means of access can be constructed. The distance between a temporary driveway and all other curb cuts shall be not less than one hundred feet (100').

(8) No loading or unloading of materials shall take place in any front or corner side yard of any parcel which fronts on the highway right-of-way. Buildings are expected to provide service entrances at the rear.

(9) No parking shall be permitted on the highway right-of-way. All parcels shall be expected to provide sufficient off-street parking to meet their individual needs, or shall coordinate with adjacent parcels or with the city to meet combined parking needs.

(D) Land within the Parkway District may be used as permitted in the underlying district in which located, subject to the above conditions and with the following exceptions:

(1) Uses of the advertising subgroup are prohibited.

(2) Junkyards are prohibited.

(3) Outdoor storage areas located outside of a structure shall be screened.

(4) Drive-in banks, other drive-in establishments, fast food restaurants, souvenir and curio shops, quick service food stores, and filling stations shall be subject to the following use limitations.

(a) Such a use shall be designed so that pedestrian and vehicular circulation is coordinated with that on adjacent properties.

(b) Such a use shall have access designed so as not to impede traffic on a public street intended to carry through traffic. To such end, access via the following means shall

be given favorable consideration in site plan review.

(i) Access to the site is provided by a public street other than one intended to carry through traffic;

(ii) Access to the site is provided via the internal circulation of a shopping center, which center contains at least six (6) other commercial uses, or in an office complex having a limited number of well-designed access points to the public street system and no additional direct access is provided to the site from a public street over and above those entrances which may exist to provide access to the shopping center;

(iii) Access to the site is provided by a functional service drive, frontage road, or joint driveway which provides controlled access to the site and/or to several adjacent sites; and/or

(iv) Acceleration/deceleration lanes, turning lanes, and/or stacking lanes are provided to improve access to the site and/or several adjacent sites.

(c) Filling stations shall not be used for the performance of major repairs, and shall not include the outdoor storage of more than two (2) abandoned, wrecked, or inoperable vehicles on the site for more than seventy-two (72) hours, subject to the limitation that there shall be no dismantling, wrecking, or sale of said vehicles or parts thereof. In addition, in no event shall any abandoned, wrecked, or inoperable vehicle be stored outdoors for a period exceeding seventy-two (72) hours.

(d) All such uses are required to provide at least one (1) regular-sized garbage container outside of the establishment.

(e) All such uses are required to provide and maintain a tastefully landscaped buffer strip or berm of at least ten feet (10') in width along the length of their frontage with

the highway or service road right-of-way (excluding points of egress and ingress).

(E) Signs shall be subject to general regulations and conditions as stated in the section of this chapter dealing specifically with signs. In addition, the following conditions shall apply to all signs within a Parkway District:

(1) Signs shall pertain only to uses conducted on the premises where they are located. The purposes of all signs shall be to inform the public of the business conducted on that premises, and wording shall be kept simple and informational. Signs are expected to be tastefully designed. Favorable consideration may be given to signs which combine information for two (2) or more adjacent businesses.

(2) Signs on buildings shall not exceed more than twelve inches (12") above the roof ridge line of the building, shall be limited to a vertical height of three feet (3') and shall be limited in length to not exceed twenty feet (20') or fifty percent (50%) (whichever is less restrictive) of the horizontal length of the building face.

(3) Freestanding signs shall be limited to a maximum overall height of twenty feet (20') above the road surface of the highway. Said signs height shall be measured from the highway road surface closest to the sign. Freestanding signs shall be limited to a surface area prescribed in the section in this chapter specifically addressing signs; however, in no case shall a sign exceed seventy-five (75) square feet per face or twenty feet (20') in length.

(4) No freestanding signs shall be erected or altered unless a use permit is first secured.

(5) No exterior signs, including freestanding signs, shall be flashing, oscillating, intermittently lit, moving, or otherwise animated, except for time/temperature displays.

(6) No sign shall project more than twelve inches (12") into or be placed within the right-of-way of any public street.

(7) No portable signs shall be permitted in the district.

(4) Zoning districts - Central Business District. The Central Business District is the civic and cultural center of Maryville. In order to maintain the appropriate and expected atmosphere of a traditional downtown, it is very important to provide an intimate scale of the urban spaces. The level of detail must be sufficiently matched by new developments. Size and quantity of fenestration must be maintained. Ornate cornices and other features should be maintained and replicated. New buildings should be designed in the base and capital streetscape style typical of the older shops. New elements such as colorful canvas awnings or theme lights can be added to the facades to create a contemporary visual unity. Design of these elements must be carefully detailed to ensure common themes. The following regulations will encourage the redevelopment and expansion of a traditional, thriving, and charming downtown Maryville.

(a) Lot dimensions.

(i) Lot size. No minimum.

(ii) Lot width. No minimum.

(b) Setbacks. Setback from existing utility easements must be observed, otherwise:

(i) Front. Ten feet (10') maximum setback from edge of sidewalk. Building setback preferably should line flush with existing buildings.

(ii) Side. Ten feet (10') maximum; no minimum. Building setback preferably should line flush with existing buildings.

(iii) Rear. No minimum, maximum variable, depending upon placement of parking as determined by the Downtown Maryville Design Review Board.

(c) Parking. Total coverage cannot exceed ten percent (10%) of the entire lot. Parking shall be placed in the back of the building (opposite from the facade) and if adjoining the street, must be supplemented by an six foot (6') opaque wall made of appropriate materials, including brick, stone, and other natural materials to create a visual edge for pedestrians and motorists. Appropriate landscaping in and around parking lots, including trees may be required.

(d) Height. Maximum allowable building height shall not exceed seventy feet (70') measured from the finished grade at the front of the building to the highest point on the façade.

(e) Windows and doors.

(i) Spacing and size of fenestration shall match that of the other buildings on the same block that were built before 1950;

(ii) Windows shall be square or vertical in orientation;

(iii) All fenestration, including doors and windows above grade, shall be indicative of the period of construction of the building;

(iv) Sill and lentils for windows are encouraged;

(v) True divided light or simulated divided light units are permissible only; and

(vi) Aluminum "storefront" glazing systems are allowable at street level only and must be approved by the Downtown Maryville Design Review Board as compatible with the original building facade.

(f) Facades.

(i) Facades shall be "pedestrian scale." Pedestrian scale is defined as a size (of building, space) that a pedestrian perceives as not dominating or overpowering;

(ii) Substantial removal, alteration, or covering of original facades shall not be permitted;

(iii) Facades composed of brick or masonry must be re-pointed and cleaned to a condition indicative of their original finish;

(iv) In cases of extreme deterioration, facades may be repaired and painted; paint colors must be of historic precedent, compatible with adjacent properties and approved by the Downtown Maryville Design Review Board. Applicants must submit paint chips, brick samples, awning fabric samples, etc. to the review board for all proposed new paint projects, building construction and facade alteration; and

(v) Awnings, may be applied and are encouraged, but must be solid or two (2) color, angled or scalloped type only and compatible with the architecture and color palette.

(g) Materials.

(i) Natural stone, brick, wood, and fiber-cement siding that resembles horizontal lap siding should be used for all buildings in the Central Business District. Cut stone is allowed while river rock and stacked stone are not allowed as they are not considered consistent with the buildings downtown;

(ii) Veneer materials are not allowed (i.e., vinyl siding, metal facade covering, stucco and synthetic stucco); and

(iii) Synthetic materials and stucco may only be allowed on a limited basis for accent, trim and cornices.

(h) Signs. Except as stated herein, this section shall supersede § 14-217 of this chapter regarding signs in this zoning district.

(i) Sign area allowed.

(A) Single story buildings. Total signage is based on twenty-five percent (25%) of the side of the property on which the entrance is located. Properties with frontage having fifty feet (50') or less shall be allowed a maximum sign area of twelve (12) square feet. The entrance shall be

the door(s) used by customers rather than entrances for purposes of rear deliveries or fire exits.

(B) Two (2) story and taller buildings. The maximum area of signage is calculated above, however, two (2) story buildings double the allowed maximum sign area, three (3) story buildings triple the allowed maximum area, etc. The maximum allowed sign area devoted to one (1) property shall not exceed three hundred (300) square feet, regardless of the number of stories and property frontage. While being limited to the calculations above, no individual sign and no combination of multiple signs on one (1) side of a building shall exceed one hundred fifty (150) square feet. If a building includes multiple uses, only the frontage and stories attributed to the subject sign may be counted. For example, a building with one (1) story of retail and two (2) stories of residential may only count the retail story for the respective retail signs.

(ii) Sign area allowances. Businesses may add signs, in addition to the maximum allowed sign area as calculated above, using no more than two (2) of the following sign allowances. All signs using these allowances will require review and approval by the planning staff.

(A) Window sign allowance. Each business may have six (6) square feet of signs applied to glass doors/windows.

(B) Awning sign allowance. Imprints of a signage and/or logo shall be allowed on an awning which shall not exceed either: the equivalent of the total twenty-five percent (25%) signage calculation above, or twenty (20) square feet, whichever is less. For example, if the property is allowed to have a ten (10) square foot sign using the twenty-five percent (25%) sign area calculation above, then the property may also have a ten (10) square foot sign or logo printed on an awning. If a building can receive a forty (40) square foot sign using the twenty-five percent (25%) rule, it may also have signage and/or logo on an awning not to exceed twenty (20) square feet.

(C) Projecting sign square footage allowance. Each business may hang one (1) perpendicular sign not to exceed six (6) square feet. Creativity and artwork in the sign design and composition are encouraged. This sign allowance is not trying to create a fake colonial era style of sign or recreate an artificial historical past. Sign designs are encouraged to be compatible to the business' trade or wares. They may be

designed as historic, contemporary, cutting edge, futuristic, fun or conservative as the business owners' intend to convey. The underside of the sign must be at least eight feet (8') above the sidewalk, but the underside of the sign must not be more than twelve feet (12') above the sidewalk. Such signs must be constructed of wood or a material, such as sign foam, that replicates wood. Signs must have: either, at least fifty percent (50%) of the surface area sandblasted; or have a combination of sandblasted features and three (3) dimensional artwork embellishments covering up to at least fifty percent (50%) of the sign area. Signs may be metal if the sign includes sufficient thickness, at least one-half inch (1/2"), not including framing. Thin, flat plastic and metal signs with vinyl lettering and/or decals are not acceptable. Signs must be painted and colors are encouraged. Sign shapes must vary from other hanging signs on the same block to encourage variety. Signs that exceed the six (6) square foot allowance may be allowed if the overage is due to artistic embellishments. Sign brackets used to support the hanging signs also require review and approval by the city. The bracket and the sign cannot project so far as to be a danger to passing pedestrians and vehicles. A professional sign company or artisan experienced with wood construction, carving and painting must fabricate signs.

(iii) Directory signs.

(A) Building mounted directory signs. Where several businesses share a building, a directory sign (listing tenant names) may be installed on the building, not to exceed six (6) square feet. The sign area of directory signs will not be subtracted from the property's allowable sign area.

(B) Freestanding directory signs. Where a single or multiple tenant business' entrance(s) do not front a public street or the entrance door is significantly obscured due to topographic, existing landscape, or other orientation of the building making it difficult for motorists to see the entrance, a freestanding directory sign (listing tenant name(s)) may be installed on the same parcel of property. Such sign shall not be taller than three feet (3') to the top of the sign and shall not exceed four (4) square feet per tenant. When there is more than one (1) tenant in a building with the same difficulty of entrance visibility, the tenants must combine their directory signs into a single freestanding directory sign, while still maintaining a maximum of four (4) square

feet per tenant. However, such freestanding directory signs shall not exceed a total of twenty-five (25) square feet and shall not exceed a height of five feet (5'). The sign area of directory signs will not be subtracted from the property's allowable sign area.

(iv) Freestanding signs. Freestanding signs of not taller than five feet (5') and not greater than twenty-five (25) square feet are allowed. Only indirect/exterior illumination is permissible. Properties that have frontage on Lamar Alexander Parkway may have freestanding signs eight feet (8') tall, but such signs can only be located on the parkway side of the property.

(v) Window signs. Window signs are permissible; however signs shall not exceed thirty percent (30%) of the total window area.

(vi) Building mounted signs. Signs can be attached to building facades at street level and shall not be roof mounted.

(vii) Perpendicular signs. Perpendicular signs must be at least eight feet (8') above the sidewalk, but the underside of the sign must not be more than twelve feet (12') above the sidewalk. Only one (1) perpendicular sign may be installed per business and such signs shall not exceed ten (10) square feet. If the property originally had a theater marquis, similar marquis signs may be installed if based on pictorial evidence.

(viii) Prohibited signs. Neon signs, flashing signs, signs with intermittent lights, rotating signs, LED signs and internally lit signs are prohibited;

(ix) Sign lighting. Only indirect/external lighting is allowed. Light directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly on the public right-of-way or residential premises. String lighting may be used for backlighting as defined in this ordinance and is permitted as an indirect/external lighting method and may be used for permanent signage.

(x) Awning signs. Imprints of a sign or logo shall be allowed on an awning and will be included in the total signage calculation, with the exception of applicants who use the awning sign allowance set forth in subsection (4)(h)(ii)(B) above;

(xi) Sandwich board sign allowance. Each business may have one (1) sandwich board sign. Sandwich board signs shall be constructed of wood in an "A" shape and be heavy enough so that strong winds do not allow it to blow over. Sandwich boards shall not be left outside of the building when the business closes, or the city may remove and dispose of the sign. Sandwich board signs

cannot exceed a height of forty-two inches (42") and shall not exceed seven (7) square feet (per side).

(xii) Materials. Sign materials shall be of natural surfaces such as wood, brick, stone, etched glass or constructed of materials that successfully replicate these natural materials. However, professional painted metal signs are also acceptable; provided, they have a finished thickness of at least one-half inch (1/2") achieved by mounting the metal sign on a substrate or by having a frame. Metal signs must have three (3) dimensional artwork embellishments covering up to at least fifty percent (50%) of the sign area.

(xiii) Sign colors. Excessively bright, fluorescent, or glaring colors are prohibited on signs.

(xiv) Sign review and permitting. Any new sign application in the downtown zones must be submitted to the planning department staff for review then forwarded to the sign inspector for issuance of a sign permit.

(xv) Signs prohibited in rights-of-way. Permanent or temporary signs shall not be installed in the road right-of-way. Sandwich board signs may be installed on sidewalks as long as they comply with the sandwich board sign allowance above and do not block a clear path along the sidewalk of thirty-six inches (36").

(xvi) Accessory signage installed to glass. Strobe lights, rotating and/or flashing emergency vehicle-type lights, neon lights strips or window outlines installed within the business and visible to the public, even if not affixed to the glass, is prohibited. Holiday lights installed seasonally are exempt from this requirement.

(xvii) Nonconforming sign. All sign-related provisions set forth in § 14-217(17), "nonconforming signs," in the City of Maryville Land Development Regulations, and as later amended, are applicable within the downtown zones, unless otherwise addressed in this chapter.

(xviii) Amortization of nonconforming sign.

(A) A nonconforming sign that exceeds the size and height by more than ten percent (10%) or that is nonconforming in some other way shall, within one (1) year after the effective date of this chapter, be altered to comply with the provisions of this chapter or be removed.

(B) If the nonconformity consists of too many freestanding signs on a single lot or an excess of total sign area on a single lot, the person responsible for the violation may determine which sign or signs need to be altered or removed to bring the development into conformance.

(xix) Reconstruction of previous signs. Property owners whom propose to reconstruct signs that are clearly documented through photographic evidence or other documentation may occur on their original location. Such reconstructed signs shall be constructed with materials, design detailing and decorative features to match or closely approximate the original sign. If signs proposed to be reconstructed do not comply with sign regulations of this chapter, the Downtown Maryville Design Review Board will review the applicant's proposal.

(xx) Signs excluded from regulation. The following signs are exempt from regulation under this chapter.

(A) Address numbers, signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

(B) Signs erected by or on behalf of, or pursuant to, the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.

(C) Official signs of a non-commercial nature erected by public utilities.

(xxi) Miscellaneous restrictions and prohibitions. All sign-related provisions set forth in § 14-217(2), (4), (5), (13) (except signs prohibited as set forth in number viii above; no internally lit signs, see number (ix) above), (14), (15), (16) and (18) of this ordinance as later amended, are applicable within the downtown zones, unless otherwise provided in this ordinance.

(i) Zoning districts - accessories/details.

(i) Details such as shutters, balconies, overhangs, exterior lighting, security lighting, etc. must be reviewed and approved by the Downtown Maryville Design Review Board as compatible with the original building facade.

(ii) Deteriorated architectural features shall be repaired rather than replaced. The new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features substantiated by historic, physical, or pictorial evidence.

(iii) Blank walls are discouraged. Painted murals and other wall decorations on elevations may be appropriate as reviewed by the Downtown Maryville Design Review Board.

(iv) Ancillary structures and equipment: HVAC equipment, above ground grease traps, electric generators, fuel tanks, trash compactors, dumpsters, garbage containment areas, storage bins and similar ancillary structures and equipment shall

be screened from public roads with landscaping, walls or fences. Proposed screening, ancillary structures and equipment shall be submitted for board review before installation.

(j) Zoning districts - demolition. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible. Demolition shall not occur unless one (1) or the more following conditions are met:

(i) If a building has lost its architectural and historical integrity and importance and its removal will not result in a more negative, less appropriate visual effect on the district;

(ii) If the denial of the demolition will result in an unreasonable economic hardship on the applicant as determined by the Downtown Maryville Design Review Board;

(iii) If the public safety and welfare requires the removal of a structure or building; or

(iv) If the structural instability or deterioration of a property is demonstrated through a report by a structural engineer or architect. Such a report must clearly detail the property's physical condition, reasons why rehabilitation is not feasible, and cost estimates for rehabilitation versus demolition. In addition to this report, there shall be a separate report that details future action of this site.

(k) Zoning districts - land uses, regardless of use. The Central Business District is the civic and cultural heart of the City of Maryville. As this zone develops, the continuous "rhythm," spacing, and aesthetics of Central Business District structures will become vital in maintaining and enhancing a vibrant small town setting.

(i) Residential. Attached homes including apartments, condominiums, and lofts above storefronts are permitted. Single-family detached housing is not appropriate in this zone.

(ii) Mixed uses. Appropriate uses should accommodate a variety of needs, especially those of residents who live nearby and tourists who visit downtown. Most types of land uses are encouraged in the Central Business District including those for entertainment, employment, service, shopping, liquor stores and light manufacturing are permitted if the building they are housed in structures meeting all design standards. Scale of proposed developments in comparison to other individual developments in the zone is most important when considering whether or not a use shall be appropriate.

(iii) Prohibited uses. Adult establishments, heavy manufacturing, mini-storage, landfill or mining, mobile home

parks, hazardous occupancies or storage of hazardous materials, or any uses not determined to be compatible with the function, character, and intent of the Central Business District.

(5) Washington Street Commercial Corridor. The Washington Street corridor sets the impression of Maryville for thousands of motorists on their way to the Smoky Mountains. The district is to be an urban design with limited direct access from the street, dense development that provides an edge to the street, limited in-front parking, pedestrian accommodations, and landscaping along edges. The downtown design review board must approve building design and site layout.

(a) Lot dimensions.

(i) Lot size. No minimum.

(ii) Lot width. No minimum.

(b) Building orientation. On lots that have frontage on Washington Street, all buildings shall face Washington Street.

(c) Curb cuts. Curb cuts on Washington Street are limited to one (1) per block. Additional curb cuts may be approved as a special exception when there are no other reasonable means of access. Side street curb cuts must be at least seventy feet (70') from Washington Street.

(d) Setbacks. Setback from existing utility easements must be observed, otherwise:

(i) Front. For frontages on Washington Street, fifteen feet (15') minimum. If a patio, drive lane, landscaped area, or other aesthetic feature is placed between the sidewalk and building, then a thirty-foot (30') maximum setback measured from the back of the curb is allowed. A fifty-foot (50') maximum setback measured from the back of the curb may be allowed if a drive lane and a single row of parking is used in the site design. Any setback greater than thirty feet (30') will require a special exception. Drive lanes and front parking are subject to screening requirements below.

The front setback for frontages not along Washington Street shall be a ten foot (10') minimum and twenty-five foot (25') maximum.

(ii) Side. No minimum. All setbacks from street rights-of-way shall use the "front" setback.

(iii) Rear. No minimum.

(e) Sidewalks. Along Washington Street, a six-foot (6') landscaped buffer between the curb and sidewalk, a six-foot (6') sidewalk, and a minimum three foot (3') landscaped buffer between the sidewalk and the beginning of development is required. On all other streets, a five-foot (5') sidewalk is required against the curb and a minimum five-foot (5') buffer area is required between the sidewalk and the beginning of development.

(f) Parking. Parking shall be placed to the rear of the building. If the site cannot accommodate adequate parking at the rear of the building, side parking is allowed if appropriately screened (see screening requirements below). A single row of angled parking may be allowed between the building and the sidewalk for lots that front Washington Street.

(g) Screening. Vehicle movement areas must be screened from sidewalks with a brick or stone wall (not cinder block), a wrought iron fence (or other fence materials that are visually similar to wrought iron), and/or landscaping. This is required to establish/maintain an edge to the street consistent with the rest of the district. This barrier shall be placed against the required three foot (3') landscaped buffer. The brick or stone portion of the wall or fence may not be taller than forty inches (40"). Fences and walls with fences on top shall not exceed six feet (6') in height.

(h) Height. Buildings shall not exceed three (3) stories or forty-five feet (45'). Taller buildings may be allowed by special exception, but may not exceed sixty-five feet (65').

(i) Facades and elevations.

(i) Facades shall provide fenestration toward pedestrian areas for purposes of safety and aesthetics.

(ii) Facades must not be monolithic; any of the following, or similar, design features may be used:

(A) Changes in surface planes.
(B) Porches.
(C) Awnings.
(D) Entry stairs.
(E) Doors.
(F) Windows.
(G) Chimneys.
(H) Changes in construction materials.
(i) Landscaping.
(J) Horizontal and vertical sun-shading devices, such as walls, canopies, and similar devices, that extend a minimum of three feet (3') beyond the wall of adjacent walls.

(iii) Facades may be repainted and shall be in good repair. Paint colors must be subdued and approved by the Downtown Design Review Board. Colors that are equivalent to Benjamin Moore's "Historical Collection" palette are pre-approved. Applicants must submit paint chips, brick samples, awning fabric samples, etc. to the review board for all proposed new paint projects, building construction and facade alteration.

(j) Materials.

(i) Natural stone, brick, wood and fiber-cement siding that resembles horizontal lap siding shall be used for all buildings in the Washington Street Commercial Corridor.

(ii) Veneer materials are not allowed (i.e., vinyl siding, metal facade covering, stucco, and synthetic stucco).

(iii) Synthetic materials and stucco may only be allowed on a limited basis for accent, trim, and cornices.

(k) Accessories/details.

(i) Facilities are encouraged to use natural materials, colors, and scale compatible with those of other downtown zones. Details such as shutters, balconies, overhangs, exterior lighting, security lighting, etc. must be reviewed and approved by the Maryville Downtown Design Review Board as compatible with the design guidelines of the zone.

(ii) In properties of historical significance, deteriorated architectural features shall be repaired rather than replaced, when feasible. The new material shall match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features shall be based on accurate duplication of features substantiated by historic, physical, or pictorial evidence.

(iii) Painted murals and other wall decorations on elevations may be appropriate as reviewed by the Downtown Maryville Design Review Board.

(iv) Ancillary structures and equipment. HVAC equipment, above ground grease traps, electric generators, fuel tanks, trash compactors, dumpsters, garbage containment areas, storage bins, and similar ancillary structures and equipment shall be screened from public roads with landscaping, walls, or fences. Proposed screening, ancillary structures, and equipment shall be submitted for board review before installation.

(l) Demolition. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature shall be avoided when possible. Demolition shall not occur unless one (1) or the more following conditions are met:

(i) A building has lost its architectural and historical integrity and importance, and its removal will not result in a more negative, less appropriate visual effect on the district;

(ii) The denial of the demolition will result in an unreasonable economic hardship on the applicant as determined by the Downtown Design Review Board;

(iii) The public safety and welfare requires the removal of a structure or building; or

(iv) The structural instability or deterioration of a property is demonstrated through a report by a structural engineer or architect. Such a report must clearly detail the property's physical condition, reasons why rehabilitation is not feasible, and cost estimates for rehabilitation versus demolition. In addition to this report, there shall be a separate report that details future action of this site.

(m) Land uses. Washington Street, through a mixed urban pattern, serves pedestrians and motorists but shall not develop as a suburban/highway commercial strip with deep setbacks and large upfront parking. The district shall promote connectivity between businesses for both pedestrian and vehicles.

(i) Residential. Attached homes including apartments, condominiums, and lofts above storefronts are permitted. Single-family detached housing is not allowed.

(ii) Mixed uses. Appropriate uses will accommodate a variety of needs, especially those of residents who live nearby and tourists who visit downtown. Light manufacturing for local consumption and distribution may be allowed by special exception.

(iii) Prohibited uses. Adult establishments, large-scale manufacturing, mini-storage, landfill or mining, hazardous occupancies or storage of hazardous materials, or any uses not determined to be compatible with the function, character, and intent of the Washington Street Commercial Corridor.

(n) Special exceptions. The evaluation of a special exception must consider the exception's impact on pedestrian movement, traffic flow, and general aesthetics of the district.

(o) Signs. Except as stated herein, this section shall supersede § 14-217 of this chapter regarding signs in this zoning district.

(i) Sign area allowed.

(A) Single story buildings. Total signage is based on twenty-five percent (25%) of the side of the property on which the entrance is located. Properties with frontage having fifty feet (50') or less shall be allowed a maximum sign area of twelve (12) square feet. The entrance shall be the door(s) used by customers rather than entrances for purposes of rear deliveries or fire exits. The total sign surface allowance for parcels along Washington Street shall be calculated based on fifty percent (50%) of the frontage along each public street. Properties along Washington Street with total frontage of fifty feet (50') or less shall be

allowed a maximum sign area of twenty-five (25) square feet.

(B) Two (2) story and taller buildings. The maximum area of signage is calculated above, however, two (2) story buildings double the allowed maximum sign area, three (3) story buildings triple the allowed maximum area, etc. The maximum allowed sign area devoted to one (1) property shall not exceed three hundred (300) square feet, regardless of the number of stories and property frontage. While being limited to the calculations above, no individual sign and no combination of multiple signs on one (1) side of a building shall exceed one hundred fifty (150) square feet. If a building includes multiple uses, only the frontage and stories attributed to the subject sign may be counted. For example, a building with one (1) story of retail and two (2) stories of residential may only count the retail story for the respective retail signs.

(ii) Sign area allowances. Businesses not on Washington Street may add signs, in addition to the maximum allowed sign area as calculated above, using no more than two (2) of the following sign allowances. All signs using these allowances will require review and approval by planning staff.

(A) Window sign allowance. Each business may have six (6) square feet of signs applied to glass doors/windows.

(B) Awning sign allowance. Imprints of a signage and/or logo shall be allowed on an awning which shall not exceed either: the equivalent of the total twenty-five percent (25%) signage calculation above, or twenty (20) square feet, whichever is less. For example, if the property is allowed to have a ten (10) square foot sign using the twenty-five percent (25%) sign area calculation above, then the property may also have a ten (10) square foot sign or logo printed on an awning. If a building can receive a forty (40) square foot sign using the twenty-five percent (25%) rule, it may have also have signage and/or logo on an awning not to exceed twenty (20) square feet.

(C) Projecting sign square footage allowance. Each business may hang one (1) perpendicular sign not to exceed six (6) square feet. Creativity and artwork in the sign design and composition are encouraged. This sign allowance is not trying to create a fake colonial era style of sign or recreate an artificial historical past. Sign designs are encouraged to be compatible to the business's trade or wares. They may be

designed as historic, contemporary, cutting edge, futuristic, fun or conservative as the business owners intend to convey. The underside of the sign must be at least eight feet (8') above the sidewalk, but the underside of the sign must not be more than twelve feet (12') above the sidewalk. Such signs must be constructed of wood or a material, such as sign foam, that replicates wood. Signs must have either at least fifty percent (50%) of the surface area sandblasted, or have a combination of sandblasted features and three (3) dimensional artwork embellishments covering up to at least fifty percent (50%) of the sign area. Signs may be metal if the sign includes sufficient thickness of at least one-half inch (1/2"), not including framing. Thin, flat plastic and metal signs with vinyl lettering and/or decals are not acceptable. Signs must be painted and colors are encouraged. Sign shapes must vary from other hanging signs on the same block to encourage variety. Signs that exceed the six (6) square foot allowance may be allowed if the overage is due to artistic embellishments. Sign brackets used to support the hanging signs also require review and approval by the city. The bracket and the sign cannot project so far as to be a danger to passing pedestrians or vehicles. A professional sign company or artisan experienced with wood construction, carving and painting must fabricate signs.

(iii) Directory signs.

(A) Building-mounted directory signs. Where several businesses share a building, a directory sign (listing tenant names) may be installed on the building, not to exceed six (6) square feet. The sign area of directory signs will not be subtracted from the property's allowable sign area.

(B) Freestanding directory signs. Where a single or multiple tenant business entrance(s) does not front a public street, or the entrance door is significantly obscured due to topographic, existing landscape, or other orientation of the building, making it difficult for motorists to see the entrance, a freestanding directory sign (listing tenant name(s)) may be installed on the same parcel of property. Such signs shall not be taller than three feet (3') to the top of the sign and shall not exceed four (4) square feet per tenant. When there is more than one (1) tenant in a building with the same difficulty of entrance visibility, the tenants must combine their directory signs into a single

freestanding directory sign, while still maintaining a maximum of four (4) square feet per tenant. However, such freestanding directory signs shall not exceed a total of twenty-five (25) square feet and shall not exceed a height of five feet (5'). The sign area of directory signs will not be subtracted from the property's allowable sign area.

(iv) Freestanding signs. Freestanding signs of not taller than twelve feet (12') and not greater than sixty (60) square feet are allowed. For parcels along Washington Street, the maximum height of a freestanding sign is twenty feet (20'). Changeable message signs are allowable within the total maximum sixty (60) square foot area and shall not exceed twenty (20) square feet. The changeable message sign may not be installed as a separate freestanding sign nor may it be installed as a portable sign.

(v) Window signs. Window signs are permissible; however, signs shall not exceed thirty percent (30%) of the total window area.

(vi) Building mounted signs. Signs can be attached to building facades at street level and shall not be roof mounted.

(vii) Perpendicular signs. Perpendicular signs must be at least feet (8') above the sidewalk, but the underside of the sign must not be more than twelve feet (12') above the sidewalk. Only one (1) perpendicular sign may be installed per business and such signs shall not exceed ten (10) square feet. If the property originally had a theater marquis, similar marquis signs may be installed if based on pictorial evidence.

(viii) Changeable message signs. Along Washington Street, changeable message signs are allowed and may be in addition to the maximum allowable total signage. Only one (1) changeable message sign is allowed. Changeable message signs, which include electronic message center signs, shall be no larger than twenty (20) square feet, except for gasoline product signs which shall be no larger than twenty-five (25) square feet. Changeable message signs can only be on the building or on a freestanding sign.

(ix) Sign lighting. Only indirect/external lighting is allowed except along Washington Street. Light directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly on public right-of-way or residential premises. Neon signs, flashing signs, signs with intermittent lights, and rotating signs are prohibited. String lighting may be used for backlighting as defined in this ordinance and is permitted as an indirect/external lighting method and may be used for permanent signage.

(x) Awning signs. Imprints of a sign or logo shall be allowed on an awning and will be included in the total signage calculation, with the exception of applicants whom use the awning sign allowance set forth in subsection (5)(o)(ii)(B).

(xi) Sandwich board sign allowance. Each business may have one (1) sandwich board sign. Sandwich board signs shall be constructed of wood in an "A" shape and be heavy enough so that strong winds do not allow it to blow over. Sandwich boards shall not be left outside of the building when the business closes, or the city may remove and dispose of the sign. Sandwich board signs cannot exceed a height of forty-two inches (42") and shall not exceed seven (7) square feet (per side).

(xii) Materials. Lettering and design features of freestanding and wall mounted signs shall have a minimum one-half inch (1/2") in finished thickness to present a three (3) dimensional display area.

(xiii) Sign colors. Excessively bright, fluorescent, or glaring colors are prohibited on signs.

(xiv) Sign review and permitting. Any new sign application in the downtown zones must be submitted to the planning department staff for review, then forwarded to the sign inspector for issuance of a sign permit.

(xv) Signs prohibited in rights-of-way. Permanent or temporary signs shall not be installed in the road right-of-way. Sandwich board signs may be installed on sidewalks as long as they comply with the sandwich board sign allowance above and do not block a clear path along the sidewalk of thirty-six inches (36").

(xvi) Accessory signage installed to glass. Strobe lights, rotating and/or flashing emergency vehicle-type lights, neon lights strips or window outlines installed within the business and visible to the public, even if not affixed to the glass, is prohibited. Holiday lights installed seasonally are exempt from this requirement.

(xvii) Nonconforming sign. All sign-related provisions set forth in § 14-217(17), in the City of Maryville Land Development Regulations, and as later amended, are applicable within the downtown zones, unless otherwise addressed in this chapter.

(xviii) Reconstruction of previous signs. Property owners who propose to reconstruct signs that are clearly documented through photographic evidence or other documentation may occur on their original location. Such reconstructed signs shall be constructed with materials, design detailing and decorative features to match or closely approximate the original sign. If signs proposed to be reconstructed do not comply with sign regulations

of this chapter, the Downtown Maryville Design Review Board will review the applicant's proposal.

(xix) Signs excluded from regulation. The following signs are exempt from regulation under this chapter.

(A) Address numbers, signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

(B) Signs erected by or on behalf of, or pursuant to, the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.

(C) Official signs of a non-commercial nature erected by public utilities.

(xx) Miscellaneous restrictions and prohibitions. All sign-related provisions set forth in § 14-217(2), (4), (5), (13) (except signs prohibited as set forth in number (ix) above; no internally lit signs, see number (ix) above), (14), (15), (16) and (18) of this section, as later amended, are applicable within the downtown zones, unless otherwise provided in this chapter.

(6) Zoning districts - Office Transition Zone. Serving as a the southern fringe of downtown Maryville, the Office Transition Zone provides mixed use opportunities in older homes and smaller scale commercial structures. The zone's intent is to maintain and establish the charm of the older homes and businesses, maintain the existing small town feel by requiring lower density developments, and preserve the human scale of the area.

(a) Lot dimensions.

(i) Lot size. No minimum.

(ii) Lot width. No minimum.

(b) Setbacks: Setback from existing utility easements must be observed, otherwise:

(i) Front. Twenty foot (20') maximum from street right-of-way. Building setback preferably should line flush with existing buildings in the district.

(ii) Side. Ten foot (10') minimum.

(iii) Rear. No minimum. Maximum variable depending upon placement of parking as determined by the Downtown Maryville Design Review Board.

(c) Parking. Total coverage cannot exceed thirty percent (30%) of the entire lot. Parking must be placed in the rear of the building. If rear parking is impossible, parking may be placed on one (1) side. Parking shall not be allowed in the front. In those cases where parking adjoins a street, a six foot (6') opaque wall made of appropriate materials, including brick, stone, and other natural materials must be appropriately

placed to create a visual edge for pedestrians and motorists. Appropriate landscaping in and around parking lots, including trees may be required.

(d) Height. The maximum height for all new buildings shall not exceed either two (2) stories, or thirty feet (30').

(e) Windows and doors.

(i) Spacing and size of fenestration shall match that of the other buildings on the same block that were built before 1950;

(ii) Windows shall be square or vertical in orientation;

(iii) All fenestration, including doors and windows above grade shall be indicative of the period of construction of the building;

(iv) Sill and lentils for windows are encouraged; and

(v) True divided light or simulated divided light units are permissible only.

(f) Facades.

(i) Substantial removal, alteration, or covering of original facades is not allowed;

(ii) Façades composed of brick or masonry shall be re-pointed and cleaned to a condition indicative of their original finish; and

(iii) In cases of extreme deterioration, facades may be repaired and painted. Paint colors must be of historic precedent compatible with adjacent properties and approved by the Downtown Maryville Design Review Board. Applicants must submit paint chips, brick samples, awning fabric samples, etc. to the review board for all proposed new paint projects, building construction and facade alteration.

(g) Materials.

(i) Exterior materials shall be natural stone, wood, brick, or fiber-cement siding with residential scale fenestration. Cut stone is allowed while river rock and stacked stone are not allowed as they are not considered consistent with the buildings downtown.

(ii) Veneer materials (i.e., vinyl siding, stucco, and synthetic stucco) are not allowed.

(iii) Synthetic materials and stucco may only be allowed on a limited basis for accent, trim and cornices.

(h) Signs. Except as stated herein, this section shall supersede § 14-217 of this chapter regarding signs in this zoning district.

(i) Sign area allowed.

(A) Single story buildings. Total signage is based on twenty-five percent (25%) of the side of the property on which the entrance is located. Properties with frontage having feet (50') or less shall be allowed a maximum sign area of twelve (12) square feet. The entrance shall be the

door(s) used by customers rather than entrances for purposes of rear deliveries or fire exits.

(B) Two (2) story and taller buildings. The maximum area of signage is calculated above, however, two (2) story buildings double the allowed maximum sign area, three (3) story buildings triple the allowed maximum area, etc. The maximum allowed sign area devoted to one (1) property shall not exceed three hundred (300) square feet, regardless of the number of stories and property frontage. While being limited to the calculations above, no individual sign and no combination of multiple signs on one (1) side of a building shall exceed one hundred fifty (150) square feet. If a building includes multiple uses, only the frontage and stories attributed to the subject sign may be counted. For example, a building with one (1) story of retail and two (2) stories of residential may only count the retail story for the respective retail signs.

(ii) Sign area allowances. Businesses may add signs, in addition to the maximum allowed sign area as calculated above, using no more than two (2) of the following sign allowances. All signs using these allowances will require review and approval by planning staff.

(A) Window sign allowance. Each business may have six (6) square feet of signs applied to glass doors/windows.

(B) Awning sign allowance. Imprints of a signage and/or logo shall be allowed on an awning which shall not exceed either: The equivalent of the total twenty-five percent (25%) signage calculation above, or twenty (20) square feet, whichever is less. For example, if the property is allowed to have a ten (10) square foot sign using the twenty-five percent (25%) sign area calculation above, then the property may also have a ten (10) square foot sign or logo printed on an awning. If a building can receive a forty (40) square foot sign using the twenty-five percent (25%) rule, it may also have signage and/or logo on an awning not to exceed twenty (20) square feet.

(C) Projecting sign square footage allowance. Each business may hang one (1) perpendicular sign not to exceed six (6) square feet. Creativity and artwork in the sign design and composition are encouraged. This sign allowance is not trying to create a fake colonial era style of sign or recreate an artificial historical past. Sign designs are encouraged to be compatible to the business' trade or

wares. They may be designed as historic, contemporary, cutting edge, futuristic, fun or conservative as the business owners' intend to convey. The underside of the sign must be at least eight feet (8') above the sidewalk, but the underside of the sign must not be more than twelve feet (12') above the sidewalk. Such signs must be constructed of wood or a material, such as sign foam, that replicates wood. Signs must have: Either, at least fifty percent (50%) of the surface area sandblasted; or have a combination of sandblasted features and three (3) dimensional artwork embellishments covering up to at least fifty percent (50%) of the sign area. Signs may be metal if the sign includes sufficient thickness, at least one-half inch (1/2"), not including framing. Thin, flat plastic and metal signs with vinyl lettering and/or decals are not acceptable. Signs must be painted and colors are encouraged. Sign shapes must vary from other hanging signs on the same block to encourage variety. Signs that exceed the six (6) square foot allowance may be allowed if the overage is due to artistic embellishments. Sign brackets used to support the hanging signs also require review and approval by the city. The bracket and the sign cannot project so far as to be a danger to passing pedestrians and vehicles. A professional sign company or artisan experienced with wood construction, carving and painting must fabricate signs.

(iii) Directory signs.

(A) Building mounted directory signs. Where several businesses share a building, a directory sign (listing tenant names) may be installed on the building, not to exceed six (6) square feet. The sign area of directory signs will not be subtracted from the property's allowable sign area.

(B) Freestanding directory signs. Where a single or multiple tenant business' entrance(s) do not front a public street or the entrance door is significantly obscured due to topographic, existing landscape, or other orientation of the building making it difficult for motorists to see the entrance, a freestanding directory sign (listing tenant name(s)) may be installed on the same parcel of property. Such sign shall not be taller than three feet (3') to the top of the sign and shall not exceed four (4) square feet per tenant. When there is more than one (1) tenant in a building with the same difficulty of entrance visibility, the tenants must combine their directory signs into a single freestanding directory

sign, while still maintaining a maximum of four (4) square feet per tenant. However, such freestanding directory signs shall not exceed a total of twenty-five (25) square feet and shall not exceed a height of five feet (5'). The sign area of directory signs will not be subtracted from the property's allowable sign area.

(iv) Freestanding signs. Freestanding signs of not taller than five feet (5') and not greater than twenty-five (25) square feet are allowed. Only indirect/exterior illumination is permissible. Properties that have frontage on Lamar Alexander Parkway may have freestanding signs eight feet (8') tall, but such signs can only be located on the parkway side of the property.

(v) Window signs. Window signs are permissible; however signs shall not exceed thirty percent (30%) of the total window area.

(vi) Building mounted signs. Signs can be attached to building facades at street level and shall not be roof mounted.

(vii) Perpendicular signs. Perpendicular signs must be at least feet (8') above the sidewalk, but the underside of the sign must not be more than twelve feet (12') above the sidewalk. Only one (1) perpendicular sign may be installed per business and such signs shall not exceed ten (10) square feet. If the property originally had a theater marquis, similar marquis signs may be installed if based on pictorial evidence.

(viii) Prohibited signs. Neon signs, flashing signs, signs with intermittent lights, rotating signs, LED signs and internally lit signs, are prohibited.

(ix) Sign lighting. Only indirect/external lighting is allowed. Light directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly on public right-of-way or residential premises. String lighting may be used for backlighting as defined in this chapter and is permitted as an indirect/external lighting method and may be used for permanent signage.

(x) Awning signs. Imprints of a sign or logo shall be allowed on an awning and will be included in the total signage calculation, with the exception of applicants whom use the awning sign allowance set forth in subsection (6)(h)(ii)(B) above.

(xi) Sandwich board sign allowance. Each business may have one (1) sandwich board sign. Sandwich board signs shall be constructed of wood in an "A" shape and be heavy enough so that strong winds do not allow it to blow over. Sandwich boards shall not be left outside of the building when the business closes, or the city may remove and dispose of the sign. Sandwich board signs

cannot exceed a height of forty-two inches (42") and shall not exceed seven (7) square feet (per side).

(xii) Materials. Lettering and design features of freestanding and wall mounted signs shall have a minimum one-half inch (1/2") in raised finished thickness to present a three (3) dimensional display area.

(xiii) Sign colors. Excessively bright, fluorescent, or glaring colors are prohibited on signs.

(xiv) Sign review and permitting. Any new sign application in the downtown zones must be submitted to the planning department staff for review, then forwarded to the sign inspector for issuance of a sign permit.

(xv) Signs prohibited in rights-of-way. Permanent or temporary signs shall not be installed in the road right-of-way. Sandwich board signs may be installed on sidewalks as long as they comply with the sandwich board sign allowance above and do not block a clear path along the sidewalk of thirty-six inches (36").

(xvi) Accessory signage installed to glass. Strobe lights, rotating and/or flashing emergency vehicle-type lights, neon lights strips or window outlines installed within the business and visible to the public, even if not affixed to the glass, is prohibited. Holiday lights installed seasonally are exempt from this requirement.

(xvii) Nonconforming sign. All sign-related provisions set forth in § 14-217(17), in the City of Maryville Land Development Regulations, and as later amended, are applicable within the downtown zones, unless otherwise addressed in this chapter.

(xviii) Amortization of nonconforming sign.

(A) A nonconforming sign that exceeds the size and height by more than ten percent (10%) or that is nonconforming in some other way shall, within one (1) year after the effective date of this chapter, be altered to comply with the provisions of this chapter or be removed.

(B) If the nonconformity consists of too many freestanding signs on a single lot or an excess of total sign area on a single lot, the person responsible for the violation may determine which sign or signs need to be altered or removed to bring the development into conformance.

(xix) Reconstruction of previous signs. Property owners who propose to reconstruct signs that are clearly documented through photographic evidence or other documentation may occur on their original location. Such reconstructed signs shall be constructed with materials, design detailing and decorative features to match or closely approximate, the original sign. If signs proposed to be reconstructed do not comply with sign

regulations of this chapter, the Downtown Maryville Design Review Board will review the applicant's proposal.

(xx) Signs excluded from regulation. The following signs are exempt from regulation under this chapter.

(A) Address numbers, signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

(B) Signs erected by or on behalf of, or pursuant to, the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.

(C) Official signs of a non-commercial nature erected by public utilities.

(xxi) Miscellaneous restrictions and prohibitions. All sign-related provisions set forth in § 14-217(2), (4), (5), (13) (except signs prohibited as set forth in number (viii) above; no internally lit signs, see number ix above), (14), (15), (16) and (18) of this chapter as later amended, are applicable within the downtown zones, unless otherwise provided in this ordinance.

(i) Accessories/details.

(i) New buildings shall have porches with columns to match the character and detail of the area;

(ii) Roof shall be pitched at least four to twelve (4:12) with gables facing the streetscape;

(iii) All new construction shall match the single-family residential scale of the zone;

(iv) Details such as shutters, balconies, overhangs, exterior lighting, security lighting, etc. must be reviewed and approved by the Downtown Maryville Design Review Board as compatible with the original building facade;

(v) Paint colors must be of historic precedent, compatible with adjacent properties and approved by the Downtown Maryville Design Review Board;

(vi) Deteriorated architectural features shall be repaired rather than replaced. The new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features substantiated by historic, physical, or pictorial evidence;

(vii) Blank walls are discouraged. Painted murals and other wall decorations on elevations may be appropriate as reviewed by the Downtown Maryville Design Review Board; and

(viii) Ancillary structures and equipment. HVAC equipment, above ground grease traps, electric generators, fuel

tanks, trash compactors, dumpsters, garbage containment areas, storage bins and similar ancillary structures and equipment shall be screened from public roads with landscaping, walls or fences. Proposed screening, ancillary structures and equipment shall be submitted for board review before installation.

(j) Demolition. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible. Demolition shall not occur unless one (1) or the more following conditions are met:

(i) If a building has lost its architectural and historical integrity and importance and its removal will not result in a more negative, less appropriate visual effect on the district;

(ii) If the denial of the demolition will result in an unreasonable economic hardship on the applicant as determined by the Downtown Maryville Design Review Board;

(iii) If the public safety and welfare requires the removal of a structure or building; and

(iv) If the structural instability or deterioration of a property is demonstrated through a report by a structural engineer or architect. Such a report must clearly detail the property's physical condition, reasons why rehabilitation is not feasible, and cost estimates for rehabilitation versus demolition. In addition to this report, there shall be a separate report that details future action of this site.

(k) Land uses, regardless of use. New developments shall benchmark the existing historic single-family residences and associated small scale businesses.

(i) Residential. Attached homes including single-family residential, apartments, condominiums, and lofts above storefronts are permitted.

(ii) Mixed uses. Appropriate uses should accommodate a variety of needs, especially those of residents who live nearby and tourists who visit downtown. Most types of land uses are encouraged in the Office Transition Zone including those for entertainment, employment, service, shopping, and light manufacturing are permitted if the building they are housed in structures meeting all design standards. Scale of proposed developments in comparison to other individual developments in the zone is most important when considering whether or not a use shall be appropriate.

(iii) Prohibited uses. Adult establishments, heavy manufacturing, mini-storage, landfill or mining, hazardous

occupancies or storage of hazardous materials, or any uses not determined to be compatible with the function, character, and intent of the Office Transition Zone.

(7) Zoning districts - Heritage Development Zone. The Heritage Development Zone's proximity to the original site of Ft. Craig, the Central Business District, and its location on the greenbelt shall provide opportunities for festivals, festive retail, cultural and heritage-related uses such as museums, craft shops, antiques, or any appropriate use that will attract locals and tourists to the area. In an effort to expand development opportunities for vacant lots and buildings within the Heritage Development Zone, all lots within the district that have frontage along E. Church Avenue shall be afforded the right to develop under the same standards as outlined in the Central Business District Zone. Allowing this flexibility will ensure a more cohesive development pattern along both sides of E. Church Avenue.

(a) Lot dimensions.

(i) Lot size. No minimum.

(ii) Lot width. No minimum.

(b) Setbacks.

(i) Front. Twenty foot (20') maximum setback to the street right-of-way or greenbelt. Building setback preferably should line flush with existing buildings in the district.

(ii) Side. No minimum unless adjacent to residential use; ten foot (10') minimum if adjacent to residential use.

(iii) Rear. No minimum. Maximum variable depending upon placement of parking as determined by the Downtown Maryville Design Review Board.

(c) Parking. Total coverage cannot exceed thirty percent (30%) of the entire lot. Parking must be placed in the rear of the building. If rear parking is impossible, parking may be placed on one (1) side. Parking shall not be allowed in front. In those cases where parking adjoins a street, a six foot (6') opaque wall made of appropriate materials, including brick, stone, and other natural materials must be appropriately placed to create a visual edge for pedestrians and motorists. Appropriate landscaping in and around parking lots, including trees may be required. Due to the variety of land uses allowed within the downtown districts and the fact that not all uses are specifically identified within the parking standards and regulations table, the land use administrator is hereby authorized to use the parking table as a guide in determining an adequate number of parking spaces for projects within the Heritage Development Zone. When land uses have specific needs or provide special services, the land use administrator shall use discretion in calculating and determining the number of spaces needed and the parking lot coverage to be constructed on-site, and may also consider public and

satellite parking that may be available to a specific site in the final design of the parking needed for a particular project.

(d) Height. The maximum height for all new buildings shall not exceed three (3) stories, or forty-five feet (45').

(e) Windows and doors.

(i) Spacing and size of fenestration shall match that of the other buildings on the same block that were built before 1950;

(ii) Windows shall be square or vertical in orientation;

(iii) All fenestration, including doors and windows above grade, shall be indicative of the period of construction of the building;

(iv) Sill and lentils for windows are encouraged; and

(v) True divided light or simulated divided light units are permissible only.

(f) Facades.

(i) Substantial removal, alteration, or covering of original facades is not allowed;

(ii) Facades composed of brick or masonry shall be re-pointed and cleaned to a condition indicative of their original finish; and

(iii) In cases of extreme deterioration, facades may be repaired and painted. Paint colors must be of historic precedent, compatible with adjacent properties and approved by the Downtown Maryville Design Review Board. Applicants must submit paint chips, brick samples, awning fabric samples, etc. to the review board for all proposed new paint projects, building construction and facade alteration.

(g) Materials.

(i) Exterior materials shall be wood, stone, brick or fiber-cement siding that resembles horizontal lap siding with residential scale fenestration. Cut stone is allowed while river rock and stacked stone are not allowed as they are not considered consistent with the buildings downtown;

(ii) Veneer materials (i.e., vinyl siding, stucco, and synthetic stucco) are not allowed; and

(iii) Synthetic materials and stucco may only be allowed on a limited basis for accent, trim and cornices.

(h) Signs. Except as stated herein, this section shall supersede § 14-217 of this chapter regarding signs in this zoning district.

(i) Sign area allowed.

(A) Single story buildings. Total signage is based on twenty-five percent (25%) of the side of the property on which the entrance is located. Properties with frontage having fifty feet (50') or less shall be allowed a maximum

sign area of twelve (12) square feet. The entrance shall be the door(s) used by customers rather than entrances for purposes of rear deliveries or fire exits.

(B) Two (2) story and taller buildings. The maximum area of signage is calculated above, however, two (2) story buildings double the allowed maximum sign area, three (3) story buildings triple the allowed maximum area, etc. The maximum allowed sign area devoted to one (1) property shall not exceed three hundred (300) square feet, regardless of the number of stories and property frontage. While being limited to the calculations above, no individual sign and no combination of multiple signs on one (1) side of a building shall exceed one hundred fifty (150) square feet. If a building includes multiple uses, only the frontage and stories attributed to the subject sign may be counted. For example, a building with one (1) story of retail and two (2) stories of residential may only count the retail story for the respective retail signs.

(ii) Sign area allowances. Businesses may add signs, in addition to the maximum allowed sign area as calculated above, using no more than two (2) of the following sign allowances. All signs using these allowances will require review and approval by planning staff.

(A) Window sign allowance. Each business may have six (6) square feet of signs applied to glass doors/windows.

(B) Awning sign allowance. Imprints of a signage and/or logo shall be allowed on an awning which shall not exceed either: the equivalent of the total twenty-five percent (25%) signage calculation above, or twenty (20) square feet, whichever is less. For example, if the property is allowed to have a ten (10) square foot sign using the twenty-five percent (25%) sign area calculation above, then the property may also have a ten (10) square foot sign or logo printed on an awning. If a building can receive a forty (40) square foot sign using the twenty-five percent (25%) rule, it may have also have signage and/or logo on an awning not to exceed twenty (20) square feet.

(C) Projecting sign square footage allowance. Each business may hang one (1) perpendicular sign not to exceed six (6) square feet. Creativity and artwork in the sign design and composition are encouraged. This sign allowance is not trying to create a fake colonial era style of sign or recreate an artificial historical past. Sign designs are encouraged to

be compatible to the business' trade or wares. They may be designed as historic, contemporary, cutting edge, futuristic, fun or conservative as the business owners' intend to convey. The underside of the sign must be at least eight feet (8') above the sidewalk, but the underside of the sign must not be more than twelve feet (12') above the sidewalk. Such signs must be constructed of wood or a material, such as sign foam, that replicates wood. Signs must have: either, at least fifty percent (50%) of the surface area sandblasted; or have a combination of sandblasted features and three (3) dimensional artwork embellishments covering up to at least fifty percent (50%) of the sign area. Signs may be metal if the sign includes sufficient thickness, at least one-half inch (1/2"), not including framing. Thin, flat plastic and metal signs with vinyl lettering and/or decals are not acceptable. Signs must be painted and colors are encouraged. Sign shapes must vary from other hanging signs on the same block to encourage variety. Signs that exceed the six (6) square foot allowance may be allowed if the overage is due to artistic embellishments. Sign brackets used to support the hanging signs also require review and approval by the city. The bracket and the sign cannot project so far as to be a danger to passing pedestrians and vehicles. A professional sign company or artisan experienced with wood construction, carving and painting must fabricate signs.

(iii) Directory signs.

(A) Building mounted directory signs. Where several businesses share a building, a directory sign (listing tenant names) may be installed on the building, not to exceed six (6) square feet. The sign area of directory signs will not be subtracted from the property's allowable sign area.

(B) Freestanding directory signs. Where a single or multiple tenant business' entrance(s) do not front a public street or the entrance door is significantly obscured due to topographic, existing landscape, or other orientation of the building making it difficult for motorists to see the entrance, a freestanding directory sign (listing tenant name(s)) may be installed on the same parcel of property. Such sign shall not be taller than three feet (3') to the top of the sign and shall not exceed four (4) square feet per tenant. When there is more than one (1) tenant in a building with the same difficulty of entrance visibility, the tenants must combine their directory signs into a single freestanding directory

sign, while still maintaining a maximum of four (4) square feet per tenant. However, such freestanding directory signs shall not exceed a total of twenty-five (25) square feet and shall not exceed a height of five feet (5'). The sign area of directory signs will not be subtracted from the property's allowable sign area.

(iv) Freestanding signs. Freestanding signs of not taller than five feet (5') and not greater than twenty-five (25) square feet are allowed. Only indirect/exterior illumination is permissible. Properties that have frontage on Lamar Alexander Parkway may have freestanding signs eight feet (8') tall, but such signs can only be located on the parkway side of the property.

(v) Window signs. Window signs are permissible; however signs shall not exceed thirty percent (30%) of the total window area.

(vi) Building mounted signs. Signs can be attached to building facades at street level and shall not be roof mounted.

(vii) Perpendicular signs. Perpendicular signs must be at least feet (8') above the sidewalk, but the underside of the sign must not be more than twelve feet (12') above the sidewalk. Only one (1) perpendicular sign may be installed per business and such signs shall not exceed ten (10) square feet. If the property originally had a theater marquis, similar marquis signs may be installed if based on pictorial evidence.

(viii) Prohibited signs. Neon signs, flashing signs, signs with intermittent lights, rotating signs, LED signs and internally lit signs are prohibited.

(ix) Sign lighting. Only indirect/external lighting is allowed. Light directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly on public right-of-way or residential premises. String lighting may be used for backlighting as defined in this ordinance and is permitted as an indirect/external lighting method and may be used for permanent signage.

(x) Awning signs. Imprints of a sign or logo shall be allowed on an awning and will be included in the total signage calculation, with the exception of applicants whom use the awning sign allowance set forth in subsection (7)(h)(ii)(B) above;

(xi) Sandwich board sign allowance. Each business may have one (1) sandwich board sign. Sandwich board signs shall be constructed of wood in an "A" shape and be heavy enough so that strong winds do not allow it to blow over. Sandwich boards shall not be left outside of the building when the business closes, or the city may remove and dispose of the sign. Sandwich board signs

cannot exceed a height of forty-two inches (42") and shall not exceed seven (7) square feet (per side).

(xii) Materials. Lettering and design features of freestanding and wall mounted signs shall have a minimum one-half inch (1/2") in raised finished thickness to present a three (3) dimensional display area.

(xiii) Sign colors. Excessively bright, fluorescent, or glaring colors are prohibited on signs.

(xiv) Sign review and permitting. Any new sign application in the downtown zones must be submitted to the planning department staff for review then forwarded to the sign inspector for issuance of a sign permit.

(xv) Signs prohibited in rights-of-way. Permanent or temporary signs shall not be installed in the road right-of-way. Sandwich board signs may be installed on sidewalks as long as they comply with the sandwich board sign allowance above and do not block a clear path along the sidewalk of thirty-six inches (36").

(xvi) Accessory signage installed to glass. Strobe lights, rotating and/or flashing emergency vehicle-type lights, neon lights strips or window outlines installed within the business and visible to the public, even if not affixed to the glass, is prohibited. Holiday lights installed seasonally are exempt from this requirement.

(xvii) Nonconforming sign. All sign-related provisions set forth in § 14-217(17), in the City of Maryville Land Development Regulations, and as later amended, are applicable within the downtown zones, unless otherwise addressed in this chapter.

(xviii) Amortization of nonconforming sign.

(A) A nonconforming sign that exceeds the size and height by more than ten percent (10%) or that is nonconforming in some other way shall, within one (1) year after the effective date of this chapter, be altered to comply with the provisions of this section or be removed.

(B) If the nonconformity consists of too many freestanding signs on a single lot or an excess of total sign area on a single lot, the person responsible for the violation may determine which sign or signs need to be altered or removed to bring the development into conformance.

(xix) Reconstruction of previous signs. Property owners who propose to reconstruct signs that are clearly documented through photographic evidence or other documentation may occur on their original location. Such reconstructed signs shall be constructed with materials, design detailing and decorative features to match or closely approximate the original sign. If signs proposed to be reconstructed do not comply with sign regulations

of this chapter, the Downtown Maryville Design Review Board will review the applicant's proposal.

(xx) Signs excluded from regulation. The following signs are exempt from regulation under this section:

(A) Address numbers, signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

(B) Signs erected by or on behalf of, or pursuant to, the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.

(C) Official signs of a non-commercial nature erected by public utilities.

(xxi) Miscellaneous restrictions and prohibitions. All sign-related provisions set forth in § 14-217(2), (4), (5), (13) (except signs prohibited as set forth in number viii above; no internally lit signs, see number (ix) above), (14), (15), (16) and (18) of this chapter as later amended, are applicable within the downtown zones, unless otherwise provided in this chapter.

(i) Accessories/details.

(i) New construction should be sensitive to the historic quality and restored nature of adjacent zones. Details such as shutters, balconies, overhangs, exterior lighting, security lighting, etc. must be reviewed and approved by the Downtown Maryville Design Review Board as compatible with the original building facade.

(ii) Where applicable, deteriorated architectural features shall be repaired rather than replaced. The new materials should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features substantiated by historic, physical, or pictorial evidence.

(iii) Blank walls are discouraged. Painted murals and other wall decorations on elevations may be appropriate as reviewed by the Downtown Maryville Design Review Board.

(iv) Ancillary structures and equipment. HVAC equipment, above ground grease traps, electric generators, fuel tanks, trash compactors, dumpsters, garbage containment areas, storage bins and similar ancillary structures and equipment shall be screened from public roads with landscaping, walls or fences. Proposed screening, ancillary structures and equipment shall be submitted for board review before installation.

(j) Demolition. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible. Demolition shall not occur unless one (1) or more of the following conditions are met:

(i) If a building has lost its architectural and historical integrity and importance and its removal will not result in a more negative, less appropriate visual effect on the district;

(ii) If the denial of the demolition will result in an unreasonable economic hardship on the applicant as determined by the Downtown Maryville Design Review Board;

(iii) If the public safety and welfare requires the removal of a structure or building; and

(iv) If the structural instability or deterioration of a property is demonstrated through a report by a structural engineer or architect. Such a report must clearly detail the property's physical condition, reasons why rehabilitation is not feasible, and cost estimates for rehabilitation versus demolition. In addition, to this report, there shall be a separate report that details future action of this site.

(k) Land uses. The Heritage Development Zone shall provide opportunities for festivals, heritage-related businesses, and greenbelt uses to attract tourists and local residents to the area.

(i) Residential. Attached homes including apartments, condominiums, and lofts above storefronts are permitted. Single-family detached housing is not appropriate in this zone.

(ii) Mixed uses. Most types of land uses in the Heritage Development Zone are encouraged including those for entertainment, employment, service, shopping, light manufacturing, cultural, heritage oriented activities, museums and tourist types of development.

(iii) Prohibited uses. Adult establishments, heavy manufacturing, mini-storage, landfill or mining, hazardous occupancies or storage of hazardous materials, or any uses not determined to be compatible with the function, character, and intent of the Heritage Development Zone.

(8) Zoning districts - Central Business District Support Zone. The Central Business District Support Zone is the zone of contrast between the urban intimacy on Harper Avenue and the open spaces of the north side of the greenbelt. This zone takes full advantage of the benefits of the greenbelt by providing mixed use development along its periphery. Businesses locating in the CBD support zone are encouraged to spill their services out onto the pathways and open areas of the greenbelt.

(a) Lot dimensions.

(i) Lot size. No minimum.

(ii) Lot width. No minimum.

(b) Setbacks. Setback from existing utility easements must be observed, otherwise:

(i) Front. Twenty foot (20') maximum setback to the street or greenbelt.

(ii) Side. Ten foot (10') maximum; no minimum.

(iii) Rear. No minimum, maximum variable, depending upon placement of parking as reviewed by the Maryville Design Review Board.

(c) Parking. Total coverage cannot exceed thirty percent (30%) of the entire lot. Parking must be placed on the side of the building that is determined to be most out of the public view by the Downtown Maryville Design Review Board. Parking shall not be allowed to impede the beauty of greenbelt views, nor destroy the potential for an "edge" on downtown streets. In those cases where parking must adjoin a street, a six foot (6') opaque wall built of appropriate materials, including brick, stone, and other natural materials shall be appropriately placed to create a visual edge for pedestrians and motorists. Appropriate landscaping in and around parking lots, including trees, may be required.

(d) Height. Maximum allowable building height shall not exceed seventy feet (70') measured from the finished grade at the front of the building to the highest point on the façade.

(e) Windows and doors.

(i) Spacing and size of fenestration shall match that of the other buildings on the same block that were built before 1950;

(ii) Windows shall be square or vertical in orientation;

(iii) All fenestration, including doors and windows above grade shall be indicative of the period of construction of the building;

(iv) Sills and lentils for windows are encouraged; and

(v) True divided light or simulated divided light units are permissible only.

(f) Facades.

(i) Facades shall be "pedestrian scale." Pedestrian scale is defined as a size (of building, space) that a pedestrian perceives as not dominating or overpowering;

(ii) Substantial removal, alteration, or covering or original facades shall not be permitted;

(iii) Facades composed of brick or masonry must be re-pointed and cleaned to a condition indicative of their original finish;

(iv) In cases of extreme deterioration, facades may be repaired and painted; paint colors must be of historic precedent, compatible with adjacent properties and approved by the Downtown Maryville Design Review Board. Applicants must submit paint chips, brick samples, awning fabric samples, etc. to the review board for all proposed new paint projects, building construction and facade alteration; and

(v) Awnings, may be applied and are encouraged, but must be solid or two (2) color, angled or scalloped type only and compatible with the architecture and color palette.

(g) Materials.

(i) Natural stone, brick, wood and fiber-based siding that resembles horizontal lap siding should be used for all buildings in the Central Business District Support Zone;

(ii) Veneer materials are not allowed (i.e., vinyl siding, metal facade covering, stucco, and synthetic stucco); and

(iii) Synthetic materials and stucco may only be allowed on a limited basis for accent, trim and cornices.

(h) Signs. Except where stated herein, the following restrictions and rules supersede the provisions of the general sign section found in § 14-217 of this chapter in this zoning district.

(i) Sign area allowed.

(A) Single story buildings. Total signage is based on twenty-five percent (25%) of the side of the property on which the entrance is located. Properties with frontage having fifty feet (50') or less shall be allowed a maximum sign area of twelve (12) square feet. The entrance shall be the door(s) used by customers rather than entrances for purposes of rear deliveries or fire exits.

(B) Two (2) story and taller buildings. The maximum area of signage is calculated above, however, two (2) story buildings double the allowed maximum sign area, three (3) story buildings triple the allowed maximum area, etc. The maximum allowed sign area devoted to one (1) property shall not exceed three hundred (300) square feet, regardless of the number of stories and property frontage. While being limited to the calculations above, no individual sign and no combination of multiple signs on one (1) side of a building shall exceed one hundred fifty (150) square feet. If a building includes multiple uses, only the frontage and stories attributed to the subject sign may be counted. For example, a building with one (1) story of retail and two (2) stories of residential may only count the retail story for the respective retail signs.

(ii) Sign area allowances. Businesses may add signs, in addition to the maximum allowed sign area as calculated above, using no more than two (2) of the following sign allowances. All signs using these allowances will require review and approval by planning staff.

(A) Window sign allowance. Each business may have six (6) square feet of signs applied to glass doors/windows.

(B) Awning sign allowance. Imprints of a signage and/or logo shall be allowed on an awning which shall not exceed either: the equivalent of the total twenty-five percent (25%) signage calculation above, or twenty (20) square feet, whichever is less. For example, if the property is allowed to have a ten (10) square foot sign using the twenty-five percent (25%) sign area calculation above, then the property may also have a ten (10) square foot sign or logo printed on an awning. If a building can receive a forty (40) square foot sign using the twenty-five percent (25%) rule, it may have also have signage and/or logo on an awning not to exceed twenty (20) square feet.

(C) Projecting sign square footage allowance. Each business may hang one (1) perpendicular sign not to exceed six (6) square feet. Creativity and artwork in the sign design and composition are encouraged. This sign allowance is not trying to create a fake colonial era style of sign or recreate an artificial historical past. Sign designs are encouraged to be compatible to the business' trade or wares. They may be designed as historic, contemporary, cutting edge, futuristic, fun or conservative as the business owners' intend to convey. The underside of the sign must be at least eight feet (8') above the sidewalk, but the underside of the sign must not be more than twelve feet (12') above the sidewalk. Such signs must be constructed of wood or a material, such as sign foam, that replicates wood. Signs must have: either, at least fifty percent (50%) of the surface area sandblasted; or have a combination of sandblasted features and three (3) dimensional artwork embellishments covering up to at least fifty percent (50%) of the sign area. Signs may be metal if the sign includes sufficient thickness, at least one-half inch (1/2"), not including framing. Thin, flat plastic and metal signs with vinyl lettering and/or decals are not acceptable. Signs must be painted and colors are encouraged. Sign shapes must vary from other hanging signs on the same block to encourage variety. Signs that exceed the six (6)

square foot allowance may be allowed if the overage is due to artistic embellishments. Sign brackets used to support the hanging signs also require review and approval by the city. The bracket and the sign cannot project so far as to be a danger to passing pedestrians and vehicles. A professional sign company or artisan experienced with wood construction, carving and painting must fabricate signs.

(iii) Directory signs.

(A) Building mounted directory signs. Where several businesses share a building, a directory sign (listing tenant names) may be installed on the building, not to exceed six (6) square feet. The sign area of directory signs will not be subtracted from the property's allowable sign area.

(B) Freestanding directory signs. Where a single or multiple tenant business' entrance(s) do not front a public street or the entrance door is significantly obscured due to topographic, existing landscape, or other orientation of the building making it difficult for motorists to see the entrance, a freestanding directory sign (listing tenant name(s)) may be installed on the same parcel of property. Such sign shall not be taller than three feet (3') to the top of the sign and shall not exceed four (4) square feet per tenant. When there is more than one (1) tenant in a building with the same difficulty of entrance visibility, the tenants must combine their directory signs into a single freestanding directory sign, while still maintaining a maximum of four (4) square feet per tenant. However, such freestanding directory signs shall not exceed a total of twenty-five (25) square feet and shall not exceed a height of five feet (5'). The sign area of directory signs will not be subtracted from the property's allowable sign area.

(iv) Freestanding signs. Freestanding signs of not taller than five feet (5') and not greater than twenty-five (25) square feet are allowed. Only indirect/exterior illumination is permissible. Properties that have frontage on Lamar Alexander Parkway may have freestanding signs eight feet (8') tall, but such signs can only be located on the parkway side of the property.

(v) Window signs. Window signs are permissible; however, signs shall not exceed thirty percent (30%) of the total window area.

(vi) Building mounted signs. Signs can be attached to building facades at street level and shall not be roof mounted.

(vii) Perpendicular signs. Perpendicular signs must be at least feet (8') above the sidewalk, but the underside of the sign must not be more than twelve feet (12') above the sidewalk. Only one (1) perpendicular sign may be installed per business and such signs shall not exceed ten (10) square feet. If the property originally had a theater marquis, similar marquis signs may be installed if based on pictorial evidence.

(viii) Prohibited signs. Neon signs, flashing signs, signs with intermittent lights, rotating signs, LED signs and internally lit signs are prohibited.

(ix) Sign lighting. Only indirect/external lighting is allowed. Light directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly on public right-of-way or residential premises. String lighting may be used for backlighting as defined in this ordinance and is permitted as an indirect/external lighting method and may be used for permanent signage.

(x) Awning signs. Imprints of a sign or logo shall be allowed on an awning and will be included in the total signage calculation, with the exception of applicants whom use the awning sign allowance set forth in subsection (8)(h)(ii)(B) above;

(xi) Sandwich board sign allowance. Each business may have one (1) sandwich board sign. Sandwich board signs shall be constructed of wood in an "A" shape and be heavy enough so that strong winds do not allow it to blow over. Sandwich boards shall not be left outside of the building when the business closes, or the city may remove and dispose of the sign. Sandwich board signs cannot exceed a height of forty-two inches (42") and shall not exceed seven (7) square feet (per side).

(xii) Materials. Signs shall be constructed of natural materials such as wood, brick, or stone, etched glass or constructed of materials that successfully replicate these natural materials. However, professional painted metal signs are also acceptable provided they have a finished thickness of at least one-half inch (1/2") achieved by mounting the metal sign on a substrate or by having a frame. Metal signs must have three (3) dimensional artwork embellishments covering up to at least fifty percent (50%) of the sign area.

(xiii) Sign colors. Excessively bright, fluorescent, or glaring colors are prohibited on signs.

(xiv) Sign review and permitting. Any new sign application in the downtown zones must be submitted to the planning department staff for review then forwarded to the sign inspector for issuance of a sign permit.

(xv) Signs prohibited in rights-of-way. Permanent or temporary signs shall not be installed in the road right-of-way. Sandwich board signs may be installed on sidewalks as long as they comply with the sandwich board sign allowance above and do not block a clear path along the sidewalk of thirty-six inches (36").

(xvi) Accessory signage installed to glass. Strobe lights, rotating and/or flashing emergency vehicle-type lights, neon lights strips or window outlines installed within the business and visible to the public, even if not affixed to the glass, is prohibited. Holiday lights installed seasonally are exempt from this requirement.

(xvii) Nonconforming sign. All sign-related provisions set forth in § 14-217(17), in the City of Maryville Land Development Regulations, and as later amended, are applicable within the downtown zones, unless otherwise addressed in this chapter.

(xviii) Amortization of nonconforming sign.

(A) A nonconforming sign that exceeds the size and height by more than ten percent (10%) or that is nonconforming in some other way shall, within one (1) year after the effective date of this chapter, be altered to comply with the provisions of this chapter or be removed.

(B) If the nonconformity consists of too many freestanding signs on a single lot or an excess of total sign area on a single lot, the person responsible for the violation may determine which sign or signs need to be altered or removed to bring the development into conformance.

(xix) Reconstruction of previous signs. Property owners whom propose to reconstruct signs that are clearly documented through photographic evidence or other documentation may occur on their original location. Such reconstructed signs shall be constructed with materials, design detailing and decorative features to match or closely approximate the original sign. If signs proposed to be reconstructed do not comply with sign regulations of this chapter, the Downtown Maryville Design Review Board will review the applicant's proposal.

(xx) Signs excluded from regulation. The following signs are exempt from regulation under this section.

(A) Address numbers, signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

(B) Signs erected by or on behalf of, or pursuant to, the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.

(C) Official signs of a non-commercial nature erected by public utilities.

(xxi) Miscellaneous restrictions and prohibitions. All sign-related provisions set forth in § 14-217(2), (4), (5), (13) (except signs prohibited as set forth in number (viii) above; no internally lit signs, see number (ix) above), (14), (15), (16) and (18) of this chapter as later amended, are applicable within the downtown zones, unless otherwise provided in this chapter.

(i) Accessories/details.

(i) Details such as shutters, balconies, overhangs, exterior lighting, security lighting, etc. must be reviewed and approved by the Maryville Downtown Design Review Board as compatible with the design guidelines of the zone and its compatibility with adjacent properties;

(ii) An "edge" must be created for all properties with street planting and/or walls where deemed appropriate by the Downtown Maryville Design Review Board;

(iii) New construction shall be sensitive to the historic quality and restored nature of adjacent zones;

(iv) Deteriorated architectural features shall be repaired rather than replaced. The new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features substantiated by historic, physical, or pictorial evidence; and

(v) Blank walls are discouraged. Painted murals and other wall decorations on elevations may be appropriate as reviewed by the Downtown Maryville Design Review Board.

(vi) Ancillary structures and equipment. HVAC equipment, above ground grease traps, electric generators, fuel tanks, trash compactors, dumpsters, garbage containment areas, storage bins and similar ancillary structures and equipment shall be screened from public roads with landscaping walls or fences. Proposed screening, ancillary structures and equipment shall be submitted for board review before installation.

(j) Demolition. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible. Demolition shall not occur unless one (1) or the more following conditions are met:

(i) If a building has lost its architectural and historical integrity and importance, and its removal will not result in a more negative, less appropriate visual effect on the district;

(ii) If the denial of the demolition will result in an unreasonable economic hardship on the applicant as determined by the design review board;

(iii) If the public safety and welfare requires the removal of a structure or building; and

(iv) If the structural instability or deterioration of a property is demonstrated through a report by a structural engineer or architect. Such a report must clearly detail the property's physical condition, reasons why rehabilitation is not feasible, and cost estimates for rehabilitation versus demolition. In addition to this report, there shall be a separate report that details future action of this site.

(k) Land uses. Because of the immense scale and proximity to the "big" side of the greenbelt, a wide variety of developments will be appropriate, including larger buildings.

(i) Residential. Attached homes including apartments, condominiums, and lofts above storefronts are permitted. Single-family detached housing is not appropriate in this zone.

(ii) Mixed uses. Appropriate uses should accommodate a variety of needs, especially those of residents who live nearby and tourists who visit downtown. Most types of land uses are encouraged in the Central Business District support zone including those for entertainment, employment, service, shopping, liquor stores and light manufacturing are permitted if the building they are housed in structures meeting all design standards. New developments should take full advantage of the close proximity to the greenbelt and the proximity of the Central Business District. Scale of proposed developments in comparison to other individual developments in the zone is most important when considering whether or not a use shall be appropriate.

(iii) Prohibited uses. Adult establishments, heavy manufacturing, mini-storage, landfill or mining, hazardous occupancies or storage of hazardous materials, or any uses not determined to be compatible with the function, character, and intent of the Central Business District Support Zone.

(9) Zoning districts - College Hill Historic District. The College Hill Historic District has the largest concentration of extant historic structures in the City of Maryville. Since the 1940s, new construction has been limited in the district and it retains much of its original character. In order to preserve and enhance the integrity of this important area of Maryville, design guidelines specific to this district are in place to ensure historically appropriate and compatible construction. Land use controls allow only single-family residential uses, and prohibit further conversion of homes into duplexes or multiplexes. All provisions set forth regarding this district are in § 14-209(10).

(a) Lot dimensions.

(i) Minimum lot area. All lots shall be at least fourteen thousand (14,000) square feet in area.

(ii) Setbacks shall be consistent with the maintenance of existing setbacks of adjacent structures, and compatible with the massing, scale, size and architectural features of such structures.

(iii) Lot frontage. Every lot shall be provided with a minimum of sixty feet (60') of frontage on an existing or new public/private street as provided in § 14-214(7).

(iv) Flag lots, creation of flag lots may not be permitted within the College Hill Historic District, unless a continuous width along the narrow (access) portion of the lot is at least sixty feet (60') wide.

(b) The "College Hill Historic District Design Guidelines" were adopted to regulate the following items in the College Hill Historic District: Landscaping, driveways, parking lots, fencing, lighting, signs, foundation walls, porch location, porch flooring, porch columns, porch railing, exterior stairs, exterior staircases, handicap ramps, entrances, entrance elements, screen and storm doors, windows, storm windows, exterior shutters and blinds, siding, roof forms, roof materials, chimneys, ornamentation, paint awnings, HVAC, satellite dishes, solar panels, recreational structures, new construction, reconstruction, height, porch configuration, doors and windows, setbacks, rhythm, building materials, entrances, additions, roof forms, relocation and demolition.

(c) Land uses, single-family only. In order to maintain the integrity and to recognize the fragility of the College Hill Historic District, there must not be further conversion of homes from single-family to duplexes or multiplexes.

(i) Residential. Existing duplexes and apartments at the time of this chapter's passage may be grandfathered uses. Otherwise, only single-family residential uses will be allowed within the entirety of the College Hill Historic District.

(ii) Mixed uses. Mixed use development is prohibited in the College Hill Historic District.

(iii) Prohibited uses. All uses except single-family residential uses.

(10) Zoning districts - College Hill Historic Overlay Zone. The College Hill Historic Overlay Zone has been created and the "Design Guidelines for the College Hill Historic District" in order to preserve the historic character through the application of design guidelines. Any construction requiring a building permit must apply for a certificate of appropriateness at the planning department and have their building plans reviewed by the historic zoning commission.

(11) Zoning districts - High Intensity Commercial District. The High Intensity Commercial District is a highly visible commercial zone which will accommodate large scale conglomerate developments consisting of at least twelve (12) stores or parcels and at least five (5) acres in area. The district encourages mixed use developments including department stores, multi-family residential, assisted living, family entertainment uses, specialty stores, and theme or fast food restaurants. The district will serve both local and regional markets, and shall be located only where traffic can be absorbed on or along major arterial highways.

(a) Lot dimensions.

(i) Lot size. No minimum.

(ii) Lot width. No minimum.

(b) Setbacks. Setback from existing utility easements must be observed, otherwise:

(i) Front. Forty foot (40') minimum setback from property line.

(ii) Side. No minimum unless abutting residential uses; twenty-five feet (25') if abutting residential uses.

(iii) Rear. Ten foot (10') minimum if not abutting residential uses; twenty-five feet (25') if abutting residential uses.

(c) Parking. Total coverage cannot exceed forty-five percent (45%) of the entire lot.

(d) Height. The maximum height for all new buildings shall not exceed either three (3) stories or forty-five feet (45').

(e) Signs, shared tenant sign. A sign shared by some or all occupants in the development. Each development in the HIC zone may have a shared tenant sign installed on each street frontage with the following maximum dimensions:

(i) One (1) sign with a thirty-foot (30') maximum height/three hundred (300) square feet maximum area (if located outside the Parkway District Overlay Zone) shall be allowed for the entire development.

(ii) Up to three (3) signs with a twenty-foot (20') maximum height/one hundred (100) square feet maximum area (if located outside the Parkway District Overlay Zone) shall be allowed along each street frontage on the exterior of the development (if bounded by four (4) or more streets, only three (3) signs will be allowed, one (1) for each street frontage).

(iii) Within Parkway District Overlay Zone, twenty-foot (20') maximum height/seventy-five (75) square feet maximum area for all shared tenant signs.

Conditions:

(i) Each shared tenant sign must observe the minimum setback of ten feet (10') from the property line/right-of-way line.

(ii) Flashing or intermittent lights other than time and temperature shall not be permitted.

(iii) The developer or property owner will determine which business signage will be attached to such sign provided that the maximum surface area and height are not exceeded.

(iv) Changeable copy (message signs) shall not be allowed.

(v) Shared tenant signs located off premises may be allowed if an easement has direct access to the development.

Freestanding signs:

(i) Shall only be allowed for individual lots inside the high intensity development.

(ii) One (1) freestanding monument sign not exceeding five feet (5') in height and twenty-five (25) square feet in area (monument style) shall be allowed on individual lots.

Building signs:

(i) If business has one (1) side of street frontage: Square footage allowed for building signs shall be determined by multiplying the number of linear feet of frontage of the lot by one foot (1'), not to exceed a total of two hundred (200) square feet.

(ii) If a business has two (2) sides of street frontage: Square footage allowed for building signs shall be determined by multiplying the number of linear feet of frontage of the lot by one foot (1'), not to exceed a total of one hundred fifty (150) square feet for each side of street frontage.

(f) Land uses conditions. Property must already be zoned business transportation; property must have more than twelve (12) individual businesses within the lot or development and at have least five (5) acres; and road frontage connected to development must be at least four hundred feet (400').

(i) Residential. Attached homes including apartments, condominiums and lofts above storefronts are encouraged. Single-family detached housing is prohibited in this zone.

(ii) Mixed uses. Because of the large scale of development, appropriate land uses should accommodate a variety of regional needs, especially those for employment, liquor stores (retail, dining, shopping, etc. and other high-visibility/high intensity commercial uses).

(iii) Prohibited uses. Adult establishments, heavy manufacturing, mini-storage, landfill or mining, mobile home parks, hazardous occupancies or storage of hazardous materials, or any uses not determined to be compatible with the function and intent of the High Intensity Commercial Zone.

This section shall supersede all other City of Maryville ordinances related to planning signs and land use control.

(12) Zoning districts - Oak Park Historic District. The Oak Park Historic District has a large concentration of extant historic structures in the City of Maryville. Since the 1940s, new construction has been limited in the district and it retains much of its original character. In order to preserve and enhance the integrity of this important area of Maryville, design guidelines specific to this district are in place to ensure historically appropriate and compatible construction.

(a) Land uses. The Oak Park Historic District shall not change adopted underlying zoning district categories at the time of the Oak Park Historic District's passage, nor preclude property owners from seeking future variances, rezonings and/or special exceptions available by law. At the time of the Oak Park Historic District's passage, the historic district includes property zoned residential, office and business and transportation. Within Zone I, "residential," further conversion of single-family homes into duplexes and multi-family uses shall be prohibited and new development is restricted to allow only single-family homes. The Oak Park Historic District Design Guidelines shall apply to Zone I, "residential." Within Zone II, "business and transportation" and Zone VI, "office," all applicable land development regulations set forth in the Maryville Land Development Regulations shall apply to property and their respective zoning districts within the historic district boundaries with the addition of the Oak Park Historic District Design Guidelines. In instances where the land development regulations conflict with the Oak Park Historic District Design Guidelines, the design guidelines shall prevail.

(b) Lot dimensions. The lot sizes shall be a minimum of sixteen thousand (16,000) square feet if used for residential purposes, regardless of the underlying zoning category. The minimum lot sizes of property within the Oak Park Historic District used for non-residential uses shall comply with § 14-214(1). In addition, all lot dimensions shall be consistent with the maintenance of existing setbacks of adjacent structures and shall be compatible with the massing, scale, size and architectural features of such structures.

(c) The "Oak Park Historic Design Guidelines" were adopted to regulate the following items in the Oak Park Historic District: landscaping, driveways, parking lots, fencing, lighting, signs, foundation walls, porch location, porch flooring, porch columns, porch railing, exterior stairs, exterior staircases, handicap ramps, entrances, entrance elements, screen and storm doors, windows, storm windows, exterior shutters and blinds, siding, roof forms, roof materials, chimneys, ornamentation, paint, awnings, HVAC, satellite dishes, solar panels, recreational structures, new construction, reconstruction, height, and demolition. The "Oak Park Historic Design Guidelines" are incorporated herein by reference.

(13) Zoning districts - Oak Park Historic Overlay Zone. The Oak Park Historic Overlay Zone has been created and the "Design Guidelines for the Oak Park Historic District" are hereby adopted by reference in order to recognize and enhance the character of the neighborhood through the application of design guidelines. Any construction requiring a building permit must apply for a certificate of appropriateness at the planning department and have their building plans reviewed by the historic zoning commission.

(14) Zoning districts - Estate Zone. The Estate Zone is the most restrictive residential district intended to be used for single-family residential areas with low population densities. This district is created and intended to be protected from the encroachment of uses not performing a function necessary to the single-family residential environment. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and accessory facilities found within this district.

(a) Lot dimensions. All newly created lots shall have a minimum lot size of one (1) acre (forty-three thousand, five hundred sixty (43,560) square feet) regardless of the availability of a sanitary sewer system provided by the public. All private sewer systems shall meet the same minimum lot size.

(b) Setbacks.

(i) Front. All structures shall be no less than thirty feet (30') from any public right-of-way.

(ii) Side. Single story dwellings shall be no less than ten feet (10') from the side yard. For dwellings of more than one (1) story, there shall be a side yard requirement of not less than fifteen feet (15').

(iii) Rear. Primary structures shall be no less than twenty-five feet (25').

(iv) Unattached accessory buildings shall not be located closer to any rear or side lot line than ten feet (10'). In no case shall an accessory building be located in the front yard. Where the high point of the roof exceeds twelve feet (12') in height, the accessory building shall be setback from the lot boundary lines an additional two feet (2') for every foot of height exceeding twelve feet (12').

(c) Land uses.

(i) Permitted uses. Single-family residential structures are permitted, but this use does not include mobile homes as defined by § 14-202 of this document. Home occupations uses are permitted in the Estate Zone if they meet with criteria set forth in § 14-202 thereof.

(ii) Prohibited uses. Uses not listed in the permitted section are prohibited.

(iii) Special uses. Nothing in this section shall prohibit uses authorized and protected by state and federal legislation; as an example churches, synagogues, or temples shall be considered a special exception use and shall be subject to the provision found in § 14-204(9) special exceptions permits.

(d) Height. The maximum height for all new structures shall be thirty-five feet (35'). All other height provisions and regulations found in this chapter shall apply where applicable.

(e) Lot width. There shall be a minimum lot width of one hundred fifty feet (150') at the front building line.

(15) Zoning districts - High Density Residential. The High Density Residential Zone classification is a residential district established to provide areas for apartments and condominium developments at thirteen (13) dwelling units per gross acre where it is determined high densities of populations can be accommodated. Quality of building materials and design, and efficiency of land is encouraged by providing for adequate light, air, and open space for apartments and condominiums found within this district.

(a) Lot size and location. All newly created High Density Residential District lots or tracts shall contain a minimum of ten (10) acres and either have:

(i) Frontage along U.S. Highway 321 West or U.S. Highway 411 South between Foothills Mall Drive to the corporate limits; or

(ii) Have frontage along a collector street, as defined by the city's 2006 major road plan, between Foothills Mall Drive and the corporate limits and connect to or intersect with U.S. Highway 321 West or U.S. Highway 411 South with a minimum classification of a collector street that is eight hundred (800) linear feet or less.

All lots shall be available to public sanitary sewer systems and water systems.

(b) Setbacks and height requirements.

(i) Front. All structures shall be no closer than one hundred feet (100') from any public right-of-way or proposed right-of-way fifty feet (50') in width or greater.

(ii) Side. No structure shall be built within fifty feet (50') of any property line regardless of height, except where interior lot lines are common to parcels each zoned High Density Residential, in which case the side yard setback may be reduced to twenty-five feet (25').

(iii) Height. Multi-family residential buildings containing four (4) or more dwelling units may not exceed thirty-five feet (35') unless the fire chief, or his designee, certifies to the permit issuing authority that such a building is designed to provide adequate

protection against the dangers of fire. In the event that the property or a portion of the property is within the Parkway Overlay District, that portion of the property shall be limited to a maximum height of thirty-five feet (35').

(iv) Chimneys shall be allowed to exceed the height limitation.

(c) Lot frontage and lot width. There shall be a minimum requirement of one hundred fifty feet (150') at the building width and each lot shall front a public right-of-way with a minimum lot frontage of no less than one hundred feet (100').

(d) Total gross floor area and open space.

(i) The total developed gross floor area of all primary and accessory uses and structures shall not exceed forty percent (40%) of the total site area.

(ii) A total of one and one-half (1-1/2) acres shall be set aside for useable play area for all residents of the High Density Residential District. Enclosed sauna and exercise rooms, meeting or activity rooms, and clubhouses are recreational areas that shall not satisfy the open space requirements. Unenclosed recreational facilities such as tennis courts, racquet ball courts, and swimming pools are uses that will satisfy this requirement.

(iii) All open space shall be maintained in one (1) of the following methods:

(A) By the developer or management authority of the development; or

(B) A homeowner's association established by deed restriction.

(iv) All common space within the High Density Residential Development shall be maintained by the developer or management authority of the development.

(e) Land uses.

(i) Permitted uses. All multi-family apartments and multi-family residences as defined in § 14-202(1) of this chapter. Accessory structures normally associated with large acreage developments, which may include, but not limited to, swimming pools, laundry rooms, clubhouses, etc. All proposed commercial and retail activities shall be reviewed and approved by the board of zoning appeals. All signage pertaining to the commercial area shall be regulated by the board of zoning appeals and not subject to the city's general ordinance regarding signs.

(ii) Prohibited uses. All uses not listed in the permitted section are prohibited and have been determined to be incompatible with the function, character and intent of the High Density Residential District.

(f) Density. The minimum building site area for dwellings shall be one (1) lot or parcel of ten (10) acres or greater. The maximum density permitted shall not exceed thirteen (13) units per acre.

(g) Conditions and other performance requirements. If deemed necessary by the planning commission a detailed analysis and study of the public and private infrastructure serving the parcel shall be performed by the developer's engineer and consultants prior to any request to rezone or designate any property High Density Residential.

(h) Design standards. The following standards shall apply to the design of attached multi-family, accessory commercial uses and accessory structures within high-density residential zones.

(i) Wall and roof planes and materials. No flat-faced concrete block is allowed on exterior walls of any structure that face adjacent single-family uses or public roads. No flat roofs are allowed if the structure exceeds more than one (1) story, except for portions of roofs constructed as parapet walls to conceal HVAC equipment.

(ii) Any of the following elements shall repeat no less than thirty feet (30'), both horizontally and vertically: changes of wall and roof planes with at least a three foot (3') projection or recess; patios; porches; awnings; stairwells, entrances; color change; construction material change; chimney; or bay-style windows that project at least two feet (2'). Elements that are not acceptable as a means to comply with the requirement above include: gutter downspouts; garage doors; retaining walls; common hallways parallel to outside walls not including stairwells; window and door frames; shutters; structural or decorative columns; or narrow extensions (less than three feet (3') wide) of fire walls. Garage doors shall be flush or recessed back from walls that contain living space.

(iii) Dumpsters. Dumpsters shall be required for developments containing more than three (3) units. All dumpsters must be screened but flat-faced block is not allowed.

(iv) Stairs. Stairwells shall be covered and integrated within the building envelope.

(v) HVAC equipment. HVAC equipment shall meet the building setback dimensions. If wall mounted HVAC are proposed to serve multi-family units above the ground floor level, screening shall be incorporated into the wall to conceal the equipment. Large ground mounted HVAC condensers shall be located or mitigated through construction of a sound absorption enclosure to minimize noise to abutting single-family residential uses.

(vi) Roof vents. Roof vents shall be painted to match the roofing material color.

(vii) External wall and roof mounted lights. External wall or roof mounted flood lights shall not be installed on walls that face abutting single-family residential uses.

(viii) Perimeter fences. Fences constructed along property lines that abut single-family uses and public roads shall not be constructed of unfinished concrete block, chain link or other similar metal material and shall not have a continuous plane of more than one hundred feet (100'). Reveals or projections (at least two feet (2') deep and two feet (2') wide), wall offsets of at least three feet (3'), or evergreen trees (at least eight feet (8') tall at planting within the property line) shall be used at least every one hundred feet (100') on the outside of the fence. The exterior material, color and structural integrity of perimeter fences and landscaping shall be maintained by the developer or management authority of the development, or by a homeowner's association established by deed restriction.

(ix) Landscaping. Development of multi-family units must provide a landscape buffer around all property lines except the main frontage road. Such landscape buffer shall meet the landscaping and lighting specifications set forth in § 14-213(6) . In addition, all development of multi-family units in a High Density Residential Districts shall provide and maintain an area or areas of landscaping at least ten percent (10%) of the parcel's gross area. Such landscaped area shall be comprised with a minimum planting of grass and stormwater detention/retention areas shall not be applied toward this requirement. In addition, at least one (1), two-inch (2") caliper tree shall be planted anywhere on the parcel for every two thousand (2,000) square feet of paved area (paved areas include private streets, parking spaces, driveways, and paved storage areas. Preservation of existing trees may be applied toward this requirement. Areas of landscaping that are planted in order to satisfy the landscape buffer requirements noted above, may be applied toward the minimum ten percent (10%) landscape area requirement.

(i) Road access. If the property abuts two (2) or more roads, the development shall provide access to at least two (2) of the roads. If the property only abuts one (1) road, the main road integral to the project shall be looped.

(16) Zoning districts - Industrial. The Industrial Zone is established to provide areas in which the principal uses are manufacturing, processing, creating, repairing, assembly of goods, merchandise and equipment, warehousing and distribution operations, commercial operations and offices for research and services not necessarily related to manufacturing or industrial uses. Other uses which may be found within the Industrial Zone are

educational and recreational facilities, miscellaneous public and semi-public facilities, public utilities and associated structures and other uses which in the opinion of the Maryville Board of Appeals are appropriate uses.

(a) Dimensions. All newly created lots shall have a minimum lot size of one (1) acre (forty-three thousand, five hundred sixty (43,560) square feet) regardless of the availability of a sanitary sewer system provided by the public. All private sewer systems shall meet the same minimum lot size.

(b) Setbacks. All setback provisions are found in § 14-213(7) of this chapter.

(c) Lot width. There shall be a minimum lot width of one hundred (100) linear feet at the front building line.

(d) Height. The maximum height for all new structures shall have a fifty-five foot (55') height limitation. All other height provisions and regulations found in § 14-213(8) shall apply where applicable.

(e) Land uses.

(i) Permitted uses. Without limiting the generality of the following list, the following uses are examples of businesses, operations, and facilities within the Industrial Zone: general warehousing and storage; lumber yard and building materials, storage; scrap and salvage operations; incinerators; production and storage of chemicals and associated products; petroleum bulk storage distribution facilities and operations; assembly; processing manufacturing; production; fabrication; creating of merchandise, products, and goods for assembly or sale, or uses determined compatible by the board zoning appeals. Auto body shops for damage and collision repair shall be permitted within the Industrial Districts. Said uses shall be in accordance with commercial design guidelines, commercial fencing regulations and all other applicable regulations found within this chapter.

(ii) Prohibited uses. All uses that are not listed in the permitted section or determined by the land use administrator or board of zoning appeals to be incompatible with the function, character, and intent of the Industrial Zone.

(17) Zoning districts - Institutional. The Institutional Zone is established and designed to provide an area in which the principle use of land is for traditional academic and educational institutions and for complimentary and accessory uses associated with a college campus and environment. Other uses which may be found within the Institutional Zone are recreational facilities, residential uses such as dormitories, support structures and facilities, offices, training and educational facilities, and limited retail outlets. This section does not address nor regulate whether personnel and facilities are managed by the college personnel or independent contractors.

(a) Size and location. All newly created Institutional Districts shall have a minimum area of two hundred (200) acres and have and maintain approximately thirty percent (30%) open space. Institutional Districts shall have a minimum frontage of at least four hundred feet (400') along U.S. Highway 321 and every approved district shall be available to sanitary sewer systems provided by the public or have a private sewer system approved by the local health department. Water and power services must be provided by a public utility.

(b) Setbacks. All setback provisions found in § 14-214, "Density and Dimensional Regulations," subsection (7): "Building setback requirements" of this document shall apply.

(c) Height. The maximum height for all new structures in this district shall have a fifty-five foot (55') height limitation. All other height provisions and regulations found in § 14-214, "Density and Dimensional Regulations," subsection (8): "Building height requirements" shall apply when applicable.

(d) Land uses. (i) Permitted uses. Without limiting the generality of the following list, the following uses are examples of activities within an Institutional District: auditoriums, cemeteries, civic, cultural or community facilities, health clinic facilities, colleges, and other schools and institutions for academic or recreational instruction, research and testing laboratories, libraries, museums, reading rooms, classrooms both indoor and outdoors, art galleries, conference and training facilities, commercial restaurants not designed to attract off campus clients, dining facilities, dormitories, and residential uses for college students, staff, faculty, and visitors in support of academic setting, indoor recreational facilities, outdoor recreational facilities including stadiums, tennis courts, swimming pools, soccer fields or similar uses, religious buildings and structures, storage and maintenance or similar uses, retail outlets for the sale of traditional college materials, automatic teller machines, satellite dishes, and college owned and operated telecommunications tower, office facilities and similar uses both centralized and within each of the uses listed above.

(ii) Prohibited uses. All uses that are not listed in the permitted section or determined by the land use administrator or board of zoning appeals to be incompatible with the function and intent of the Institutional Zone.

(18) Zoning districts - High Intensity Retail District. The High Intensity Retail (HIR) District is established to support and encourage concentrated retail development along major road corridors where most types of public infrastructure and services are already present. Shopping and dining are among the main activities in this district, and a primary goal for this zone is to stimulate retail-oriented economic activity and the accompanying

generation of sales tax revenues. Mixed use developments and certain non-retail uses that are compatible with the retail uses may also be allowed in the district, subject to specific locational criteria.

(a) Land uses. As noted above, the purpose of the High Intensity Retail District is to stimulate retail-oriented economic activity within certain major road corridors. In order to accomplish this goal, the primary uses permitted in the zone consist of retail establishments, restaurants and hotels (Group "A"). These uses are intended to locate in the prime commercial sites within the district(s), and may front upon or face major roadways. Certain non-retail uses (Group "B") which are compatible with the retail uses are allowed if they are located on "collector" or "local" streets, or in the interior of a mixed use development. Any land use not listed in Group "A" or Group "B" shall be prohibited in the High Intensity Retail District.

GROUP "A" USES	**GROUP "B" USES**
Retail uses, including, but not limited to:	Movie theaters
	Offices
Department stores	
Apparel stores	Banks, savings and loans, credit unions, retail brokerage offices and other financial institutions
Shoe stores	
Sporting goods stores	
Communication, computer stores, and electronic outlets and retailers	Personal services
Big box retailers	
Outlet stores	Second story residences
Home furnishing stores	
Office supply stores	Attached or multi-family residential housing units, as a part of a mixed use or planned unit development
Pharmacies	
Jewelry stores	
Appliance stores	
Pet and pet supply stores	Medical offices
Liquor stores	
Health food stores	Medical laboratories
Supermarkets	
Meat markets	
Ice cream shops	
Bakeries	
Restaurants, cafes, coffee shops, etc.	
Hotels	

*Group "B" uses shall not front, adjoin or directly face streets classified as "arterials." Such uses may be located along lower classified streets or in the interior of a mixed use development.

(b) Lot dimensions.

(i) Lot size. Lots containing a single building and a single tenant shall have a minimum lot size of thirty thousand (30,000) square feet. A single building with two (2) or more tenants shall be on a lot of at least one (1) acre. For a unified development having two (2) or more buildings and tenants, and which is under common design, construction and management, the size of the overall development must be at least one and one-half (1-1/2) acres, but there shall be no minimum lot size requirement for the individual buildings. Nothing in this section shall prohibit the condominium form of ownership of any portion of a building in the HIR Zone.

(ii) Lot width. For individual lots which are not within a unified development, the ratio of lot depth to lot width shall be no more than three to one (3:1).

(c) Setbacks. Building setbacks from existing utility easements must be observed, otherwise:

(i) Front. As per § 14-214(7) of the Maryville Municipal Code ("Building setback requirements"); and

(ii) Side and rear. No minimum if not abutting residential uses; twenty-five feet (25') if abutting residential uses.

(d) Parking and access.

(i) Parking lots shall be designed to connect with adjoining properties unless the engineering department determines that such cross-connections (whether current or future) would be unfeasible due to topographic considerations, safety concerns or internal or external traffic circulation issues. A large scale, unified development may propose a frontage road to provide access to and between individual lots. Such frontage road would be dedicated to and accepted for public use, and would go through the standard platting and site plan approval processes.

(ii) Each commercial lot shall be allowed at least one (1) access point where it is determined by the engineering department that such driveway is safe and in accordance with any applicable master plan of the development. Driveways onto public roads shall be spaced a minimum of one hundred feet (100') apart measured from the centerline of the driveways.

(e) Height. The maximum height for all new buildings shall not exceed seventy-five feet (75'). The "height of a structure" definition, as found in § 14-202(1)(oo) of this chapter shall apply to this provision.

(f) Signs. The High Intensity Retail Zone is subject to all other existing sign regulations found in chapter 2 of the municipal code, titled, "Zoning and Land Use Control," § 14-217 "Signs." In addition to the existing sign regulations, the following sign standards will apply to the High Intensity Retail Zone.

(i) Total sign surface area for all signs. Subject to the provisions of this section, the maximum sign surface area on any lot, for a single tenant building, in the High Intensity Retail District shall be determined by multiplying the number of linear feet of street frontage of the lot by one and one-half feet (1-1/2'). For multiple tenant buildings, the maximum sign area for each tenant space shall be determined by multiplying the width of each storefront by a factor of one and one-half feet (1-1/2').

(ii) The sign surface area for a marquee or changeable copy sign within the High Intensity Retail Zoning District may not exceed thirty (30) square feet. For Electronic Message Center (EMC) signs, see § 14-217(13)(g). Only one (1) such sign per development will be allowed, regardless of the number of tenants or owners within the project.

(iii) Freestanding sign surface area. In no case may a single side of a freestanding sign exceed seventy-five (75) square feet if the lot on which the sign is located has less than two hundred feet (200') of frontage on the street toward which the sign is primarily oriented; one hundred (100) square feet on lots with two hundred (200) or more, but less than four hundred feet (400') of frontage; and one hundred fifty (150) square feet on lots with four hundred feet (400') or more of frontage.

In the High Intensity Retail Zone, all freestanding signs shall be either a monument or pylon style. Pole covers must be attached to the pole of a pylon type sign. A "pole cover" is defined as being an enclosure for concealing poles or other structural supports of a ground sign.

(iv) Miscellaneous restrictions and prohibitions. In the High Intensity Retail Zone, directional signs may not exceed ten (10) square feet in size, be no more than four feet (4') in height, and do not have to meet the required ten feet (10') setback from the right-of-way line and/or property line. In the High Intensity Retail Zone, all directional signs shall be either a monument or pylon style. Pylon dress covers must be attached to the pole of a pylon type directional sign.

(v) In the High Intensity Retail Zone, no permanent sign face shall be constructed of plywood, Oriented Strand Board (OSB), masonite, coroplast (corrugated plastic), or similar material. All signs shall be fabricated and installed in a professional manner.

(g) Performance standards for drive-through facilities. The following criteria shall apply to drive-through facilities within the High Intensity Retail District:

(i) No structure shall have more than two (2) queuing drive-through lanes.

(ii) All developments with drive-through facilities shall provide an unobstructed emergency access around the drive-through facility and structure.

(iii) All drive-through facilities shall place drive-through lanes in the rear of the structure or away from the main road or access. Any deviation from this requirement shall be approved by the board of zoning appeals.

(iv) All drive-through facilities shall be screened with grade changes, fences, walls or materials so as to minimize the visual impact from the street.

(h) Section 14-211(5): "General provisions - commercial design criteria – city wide" shall be applicable to the High Intensity Retail District, with the following incentives available only in the H.I.R. Zone to encourage the use of brick, stone or a material that successfully simulates these materials as an exterior building material, and to encourage the use of landscaped berms between roads and parking lots.

(i) Buildings designed to incorporate at least fifty percent (50%) of unpainted brick, stone or materials that successfully simulate these materials as an exterior wall material shall be allowed to extend required offsets of wall and roof planes from thirty feet (30') to no less than every forty-five feet (45').

(ii) Sites designed with three-foot (3') tall landscaped berms between roads and parking lots shall be allowed to reduce the required thirty percent (30%) open space requirement to twenty-five percent (25%).

(iii) The landscaped berms are not intended to create a solid wall of screening landscaping. Instead the combination of the berm and vertical landscaping (trees, shrubs, boulders, etc.) interspersed along the berm are intended to screen the view of parked vehicles and help create an attractive defined edge between roads and parking lots to avoid continuous pavement. The berms shall be at least twelve feet (12') wide.

(iv) All other criteria of § 14-211(5)(a)(i) shall remain applicable to this zone.

(i) The specific provisions of this section shall supersede all other City of Maryville ordinances relating to land use control. Unless otherwise provided for in this section, however, all other applicable provisions of the zoning and land use ordinance shall apply to the High Intensity Retail District.

(19) Zoning map - official zoning map. (a) There shall be a map known and designated as the official zoning map, which shall show the boundaries of all zoning districts within the city's planning jurisdiction. This map shall be drawn on acetate or other durable material from which prints can be made, shall be dated, and shall be kept in the planning department.

(b) The official zoning map dated June 15, 2006 is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with § 14-209(19).

(c) Should the official zoning map be lost, destroyed, or damaged, the administrator may have a new map drawn on acetate or other durable material from which prints can be made. No further council authorization or action is required so long as no district boundaries are changed in this process.

(20) Zoning map- amendments to official zoning map. (a) Amendments to the official zoning map are accomplished using the same procedures that apply to other amendments to this chapter.

(b) The administrator shall update the official zoning map as soon as possible after amendments to it are adopted by the council. Upon entering any such amendment on the map, the administrator shall change the date of the map to indicate its latest revision. New prints of the updated map may then be issued.

(c) No unauthorized person may alter or modify the official zoning map.

(d) The planning department shall keep copies of superseded prints of the zoning map for historical reference. (1999 Code, § 14-209, as amended by Ord. #2020-07, April 2020 Ord. #2020-12, May 2020, 2022-02, Jan. 2022, 2022-28, June 2022, Ord. #2023-01, Jan. 2023, and 2023-10, May 2023, modified)

14-210. Permissible uses. (1) Table of permissible uses. The table of permissible uses should be read in close conjunction with the definitions of terms set forth in this chapter and the other interpretative provisions set forth in the chapter.

ZONING DISTRICT DESIGNATIONS

I. Residential
II. Business and Transportation
III. Environmental Conservation
IV. Central Community
V. Single-Family
VI. Office
VII. Neighborhood

(Numbers denote: 1 - allowed by right, 2 - special exception, 3 - prohibited)

TABLE OF PERMISSIBLE USES

LAND USE	ZONES I	II	III	IV	V	VI	VII
RESIDENTIAL							
Single-family detached, one dwelling unit per lot							
Site-built and modular structures							
Very low density (to 1.0 per acre)	1	3	1	3	1	3	1
Low density (to 4.0 per acre)					3		
Low density (to 5.0 per acre)	2	2	3	1	3	1	1
Single-family detached, more than one dwelling unit per lot							

LAND USE	ZONES I	II	III	IV	V	VI	VII
Site-built and modular structures							
Low density (to 5.0 per acre)	2	3	3	1	3	1	1
Medium density (to 8.0 per acre)	2	3	3	2	3	2	2
Mobile homes (mobile home park)	3	2	3	2	3	3	3
Two-family Residences*							
Duplex	2	2	3	1	3	2	2
Primary residence with accessory apartment	1	2	3	1	3	2	2
Two-family conversion	2	2	3	1	3	2	2
*Requires special exception							
Multi-family Residences							
Multi-family apartments	3	2	3	2	3	2	2
Multi-family townhouses	2	2	3	2	3	2	2
Multi-family conversion	2	2	3	2	3	2	2
Homes with special services treatment, or supervision							

LAND USE	I	II	III	IV	V	VI	VII
Home for handicapped for infirmed**	2	2	3	2	3	3	3
Nursing care, intermediate care homes	3	2	3	2	3	3	3
Independent living and care facility	2	1	3	1	3	3	3
Assisted living housing	2	2		2			
Child care homes	2	2	3	2	3	3	3
Continuing care retirement community	2	2	3	2	3	3	3
Halfway houses	3	2	3	2	3	3	3
Adult day care	3	1	3	2	3	3	3

**Group homes which meet the definition of same in the *Tennessee Code Annotated* are allowed by right in the Residential Zoning Districts.

Miscellaneous, rooms for rent situations

Hotels, motels	3	1	3	1	3	3	3
Rooming and boarding houses	3	1	3	1	3	2	3
Home occupations	1	3	1	2	1	1	1

ZONES

LAND USE	I	II	III	IV	V	VI	VII
Planned residential developments	2	3	2	2	2	2	2
Gathering place	2	2	3	2	3	3	2
Home occupations	1	1	1	1	1	1	1

SALES AND RENTAL OF GOODS, MERCHANDISE AND EQUIPMENT

No storage of display of goods outside fully enclosed building							
High-volume traffic*	3	1	3	2	3	3	3
Convenience stores	3	1	3	2	3	3	1
Wholesale sales	3	1	3	2	3	3	3
Low-volume traffic generation	3	1	3	1	3	3	1
Storage and display of goods outside fully enclosed building allowed							

High-volume traffic	3	1	3	2	3	3	3
Low-volume traffic generation	3	1	3	1	3	3	3
Wholesale sales	3	1	3	2	3	3	3

*Based on current ITE standards.

OFFICE, CLERICAL, RESEARCH AND SERVICES NOT PRIMARILY RELATED TO GOODS OR MERCHANDISE							
All operations conducted entirely within fully enclosed building							
Operations designed to attract and serve clients on the premises, e.g., office of attorneys, physicians, and other professional offices and land uses and personal care services and providers of such services including cosmetologists and barbers, licensed massage therapists, and other trades that require a state license to practice said employment	3	1	3	2	3	1	1
Operations designed to attract little or no client traffic other than employees of the entity operating the principle use	3	1	3	1	3	1	1
Body piercing, tattoo artists, and tattoo parlors	3	1	3	3	3	3	3

				ZONES			
LAND USE	I	II	III	IV	V	VI	VII
Offices or clinics of physicians or dentists with not more than 10,000 square feet of floor area	3	1	3	1	3	1	1
Operations conducted within or outside fully enclosed building							
Operations designed to attract and serve clients on the premises	3	1	3	2	3	2	2
Operations designed to attract little							

or no client traffic other than the employees of the entity operating the principle use	3	1	3	1	3	2	2
Banks, including those with drive-in windows	3	1	3	2	3	2	2
LIGHT INDUSTRIAL MANUFACTURING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLY OF GOODS, MERCHANDISE AND EQUIPMENT							
All operations conducted entirely within fully enclosed building							
Majority of business volume done with walk-in trade	3	1	3	2	3	3	3
Majority of business volume done with other than walk-in trade	3	1	3	1	3	3	3
Operations conducted within or Outside fully enclosed building	3	1	3	2	3	3	3
Incinerator	3	3	3	3	3	3	3
Animal or poultry slaughter Stockyards and rendering	3	3	3	3	3	3	3
				ZONES			
LAND USE	I	II	III	IV	V	VI	VII
EDUCATION, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL, FRATERNAL USES							
Schools							
Elementary and secondary	2	2	2	2	2	2	3
Trade or vocational	3	1	3	1	3	3	3
Colleges, universities, community colleges	3	1	3	1	3	3	3
Churches, synagogues, and temples							
1. Previously approved location for a place of worship by the board of appeals (See § 14-211(28))	1	1	1	1	1	1	1
2. Storefront locations (See § 14-211(28))	3	1	3	1	3	1	1
Libraries, museums, art galleries							

and similar uses	2	1	2	1	3	3	3
Social, fraternal clubs and lodges, union halls and similar uses	3	1	2	2	3	3	3
Conference/training center	3	1	3	2	3	3	2
RECREATION, AMUSEMENT, ENTERTAINMENT							
Activity conducted entirely within building or substantial structure							
Bowling alleys, skating rinks, indoor tennis and racquetball courts, indoor athletic facilities and similar uses	3	2	3	2	3	3	3
Billiard halls	3	1	3	2	3	3	3
Movie theaters	3	2	3	2	3	3	3
Coliseums, stadiums and similar facilities designed to seat or accommodate more than 1,000 people simultaneously	3	2	3	2	3	3	3
Activity conducted primarily outside enclosed buildings or structure							
Privately-owned outdoor recreational facilities (golf and country clubs, swimming or tennis clubs or other uses, when not associated with a residential development) (i.e., not part of an overall development the primary land use of which is residential)	2						

	ZONES						
LAND USE	I	II	III	IV	V	VI	VII
Subject to criteria found in § 14-211(12), Publicly owned and operated outdoor recreational facilities (athletic fields, tennis courts, swimming pools, parks, golf courses when not associated with a public institutional use, such as schools, golf driving ranges no accessory to golf courses,	3	2	2	2	3	3	3
	2	2	2	2	2	3	3

miniature golf courses, skateboard parks, water slides and similar uses	3	1	3	2	3	3	3
Horseback riding: stables, when not associated with residential development	2	3	2	3	3	3	3
Automobile and motorcycle racing tracks	3	2	3	3	3	3	3
Drive-in movie theaters	3	2	3	3	3	3	3
Adult entertainment	3	1	3	3	3	3	3
INSTITUTIONAL RESIDENCE OR CARE OR CONFINEMENT FACILITIES							
Hospitals, clinic, other medical (including mental health treatment facilities in access of 10,000 square feet or floor area)	3	2	3	2	3	3	3
Nursing care institutions, intermediate care institutions, child care institutions	3	2	3	2	3	3	3
Institutions (other than halfway houses) where mentally ill persons are confined	3	2	2	3	3	3	3
Penal and correctional facilities	3	2	2	3	3	3	3
RESTAURANTS, BARS, NIGHTCLUBS							
No substantial carry-out or delivery service, no service or consumption outside fully enclosed structure	3	1	3	2*	3	3	2
No substantial carry-out or delivery service, no drive-in service, service or consumption outside fully enclosed allowed. Carry-out and delivery service, consumption outside fully enclosed structure allowed	3	1	3	2*	3	3	2
Carry-out and delivery service, drive-in service, service or consumption outside fully enclosed structure allowed	3	1	3	2*	3	3	2
No substantial carry out or delivery service, and consumption outside and inside fully enclosed allowed Tearoom/café no							

substantial carry out or delivery service, and consumption outside and inside fully enclosed allowed	3	1	3	2	3	2	2

*Property must be located on an arterial street as defined by the Maryville Major Road Plan.

	ZONES						
LAND USE	I	II	III	IV	V	VI	VII
RESTAURANTS, BARS, NIGHTCLUBS							
No substantial carry-out or delivery service or consumption outside fully enclosed structure	3	1	3	2*	3	3	2
No substantial carry-out or delivery service, no drive-in service, service or consumption outside fully enclosed allowed	3	1	3	2*	3	3	2
Carry-out and delivery consumption outside fully enclosed structure allowed	3	1	3	2*	3	3	2
Carry-out and delivery service, drive-in service, service or consumption outside fully enclosed structure allowed	3	1	3	2*	3	3	2
No substantial carry out or delivery service, and consumption outside and inside fully enclosed allowed	3	1	3	2	3	3	2
Tearoom/café no substantial carry out or delivery service, and consumption outside and inside fully enclosed allowed	3	1	3	2	3	2	2
MOTOR VEHICLE-RELATED SALES AND SERVICE OPERATIONS							
Motor vehicle sales or rental	3	1	3	2	3	3	3
Sales with installation of motor vehicle parts or accessories	3	1	3	2	3	3	3
Mobile home and motor home sales	3	1	3	3	3	3	3
Motor vehicle repair and maintenance, including body work subject to the provisions found elsewhere in this chapter and specifically § 14-211(11)	3	1	3	3	3	3	3
Gas sales	3	1	3	2	3	3	3
Car wash	3	1	3	2	3	3	3

STORAGE AND PARKING							
Automobile parking garages and lots not located on a lot on which there is another principle use to which the parking is related and required shall be a special exception and in accordance with subsection (9)(e) of § 14-218	2	1	3	3	3	3	3
Storage of goods not related to sale or use of those goods on the same lot where they are stored							
Storage inside or outside completely enclosed structures							
Bulk petroleum storage	3	3	3	3	3	3	3
				ZONES			
LAND USE	I	II	III	IV	V	VI	VII
Liquefied petroleum gas storage							
Freight and truck terminal	3	2	3	3	3	3	3
All storage within completely enclosed structures	3	1	3	2	3	3	3
Storage inside or outside completely enclosed structures	3	1	3	3	3	3	3
Parking of vehicles or storage of equipment outside enclosed structures where: (i) vehicles or equipment are owned and used by the person making use of the lot, and (ii) parking or storage is more than a minor and incidental part of the overall use made of the lot	3	1	3	2	3	3	3
SCRAP MATERIALS, SALVAGE YARDS, JUNKYARDS, AUTOMOBILE GRAVEYARDS	3	2	3	3	3	3	3

SERVICES RELATED TO ANIMALS							
Veterinarian	3	1	3	2	3	2	2
Kennel	3	1	3	2	3	3	3
EMERGENCY SERVICES							
Police stations	3	1	3	1	3	3	3
Fire stations	2	1	3	1	3	3	3
Rescue squad, ambulance service	3	1	3	1	3	3	3
Civil defense operation	3	1	3	1	3	3	3
AGRICULTURAL, SILVICULTURAL, MINING, QUARRYING OPERATIONS							
Agricultural operations, farming							
Excluding livestock	2	3	2	3	3	3	3
Including livestock	3	3	2	3	3	3	3
Silvicultural operations	3	3	2	3	3	3	3
Mining or quarrying operations, including on-site sales of products	3	3	3	3	3	3	3
Reclamation landfill	3	2	2	3	3	3	3

LAND USE	ZONES						
	I	II	III	IV	V	VI	VII
Leased garden area	3	2	2	2	3	3	3
MISCELLANEOUS PUBLIC AND SEMI-PUBLIC FACILITIES							
Post office	3	1	3	2	3	3	3
Sanitary landfill	3	2	2	3	3	3	3
Military reserve, National Guard Centers	3	2	3	2	3	3	3
DRY CLEANER, LAUNDROMAT	3	1	3	2	3	3	3
UTILITY FACILITIES							
Neighborhood	2	2	2	1	3	3	3
Community or regional	2	2	2	2	3	3	3

TOWERS AND RELATED STRUCTURES							
Towers, antennas 50 feet tall or less*	2	1	1	2	3	3	3
Towers, antennas more than 50 feet tall and receive only earth station	3	1	2	2	3	3	3
FARMERS' MARKETS AND HORTICULTURAL SALES							
Farmers' markets	3	1	3	1	3	3	3
Horticultural sales with outdoor display	3	1	3	1	3	3	3
FUNERAL HOME	3	1	3	2	3	3	3
CEMETERY AND CREMATORIUM							
Cemetery	3	2	2	2	3	3	3
Crematorium	3	2	2	3	3	3	3
NURSERY SCHOOLS; DAY CARE CENTERS	2	1	3	1	3	3	3

	ZONES						
LAND USE	I	II	III	IV	V	VI	VII
BUS STATION	3	1	3	3	3	3	3
COMMERCIAL GREENHOUSE							
No on-premises sales	3	1	3	2	3	3	3
On-premises sales permitted	3	1	3	2	3	3	3
OFF-PREMISES SIGNS	3	2	3	3	3	3	3
SUBDIVISIONS							
Major	1	2	2	2	1	1	1
Minor	1	2	2	2	1	1	1
PLANNED UNIT DEVELOPMENTS	2	2	3	2	2	2	2

ZONES

I. Residential
II. Business and Transportation
III. Environmental Conservation
IV. Central Community
V. Single-Family
VI. Office
VII. Neighborhood

(2) Use of the designations 1, 2, 3 in table of permissible uses.

(a) Subject to subsection (3) below, when used in connection with a particular use in the table of permissible uses in subsection (1) above, the designation "1" means that the use is permissible in the indicated zoning district with a zoning permit issued by the administrator. The number "2" means a special exception permit must be obtained from the board of zoning appeals. The number "3" indicates that the use is not permitted in the indicated zoning district.

(b) When the use proposed requires a special exception permit, the process for review of the impact overlay zone shall be employed.

(3) Board of zoning appeals jurisdiction over uses otherwise permissible with a zoning permit. Notwithstanding any other provisions of this chapter, whenever the table of permissible uses provides that a use in a non-residential zoning district or a nonconforming use in a residential zoning district is permissible with a zoning permit, a special exception permit shall nevertheless be required if the administrator finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the administrator shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one (1) principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

(4) Permissible uses and specific exclusions. (a) The list of permissible uses set forth in subsection (1) above cannot be all inclusive; those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.

(b) All uses that are not listed in subsection (1) above, even given the liberal interpretation mandated by subsection (a) above, are prohibited. Subsection (1) above shall not be interpreted to allow a use in one (1) zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

(c) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

(i) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the city's fire prevention code.

(ii) Stockyards, slaughterhouses, rendering plants.

(iii) Use of travel trailer as a temporary or permanent residence.

(5) Accessory uses. (a) The table of permissible uses classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use:

(i) Constitutes only an incidental or insubstantial part of the total activity that takes place on a lot; or

(ii) Is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. (Example: a swimming pool and/or tennis court complex is customarily associated with, and integrally related to, a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart form a residential development, would require a special exception permit.)

(b) For purposes of interpreting subsection (a) above:

(i) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself, or in relation to the principal use.

(ii) To be commonly associated with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

(iii) Without limiting the generality of subsection (a) and (b) above, the following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:

(A) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities of a commercial nature, so long as such activities do not fall within the definition of a home occupation.

(B) Hobbies or recreational activities of a non-commercial nature.

(C) The renting out of one (1) or two (2) rooms within a single-family residence (which one (1) or two (2) rooms do not themselves constitute a separate dwelling unit) to not more than two (2) persons who are not part of the family that resides in the single-family dwelling.

(D) Garage sales, so long as such activities conform to the applicable Maryville Municipal Code provisions (see § 9-102).

(iv) Without limiting the generality of subsections (a) and (b) above, the following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts.

(A) Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.

(B) Parking outside a substantially enclosed structure of more than four (4) motor vehicles between the front building line of the principal building and the street on any lot used for purposes that fall within the following principal use classifications:

(1) Single-family residential.

(2) Two (2) family residential.

(3) Special residential.

(v) A "jumbotron" is an oversized video monitor that is allowed as an accessory use for events at the Maryville High School football stadium. A jumbotron shall be sited and oriented so as to serve the audience at the event and to minimize its visibility by persons who are off-site of the event. A jumbotron is not a "billboard," a "digital billboard" or an "electronic message center sign," as defined by § 14-217, "Signs" of this code.

(6) Permissible uses not requiring permits. Notwithstanding any other provisions of this chapter, no zoning or special exception permit is necessary for the following uses:

(a) Streets.

(b) Electric power, telephone, telegraph, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.

(c) Neighborhood utility facilities located within a public right-of-way with the permission of the owner (state or city) of the right-of-way.

(7) Change in use. (a) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:

(i) The change involves a change from one (1) principal use category to another.

(ii) If the original use is a planned unit development (reviewed and approved through the impact overlay provisions of this chapter), the relative proportion of space devoted to the individual principal uses that comprise the planned unit development changes to such an extent that the parking requirements for the overall use are altered.

(iii) If the original used is a planned unit development use, the mixtures of types of individual principal uses that comprise the planned unit development use changes.

(iv) If the original use is a planned residential development, the relative proportions of different types of dwelling units change.

(v) If there is only one (1) business or enterprise conducted on the lot, that business or enterprise moves out and a different type of enterprise moves in.

(b) A mere change in the status of property from unoccupied to occupied or vice versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two (2) active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than one hundred eighty (180) consecutive days or has been abandoned.

(c) A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

(8) Combination uses. (a) When permitted uses are combined within a development and include two (2) or more principal uses that require different types of permits (zoning, special exception), then the permit authorizing the combination of uses shall be:

(i) A special exception permit if any of the principal uses combined requires a special exception permit.

(ii) Zoning permit in all other cases.

(b) When a combination of uses consists of a single-family detached residential subdivision that is not integrally designed and two (2) family or multi-family uses, the total density permissible on the entire tract shall be determined by having the developer indicate on the plans the portion of the total lot that will be developed for each purpose and calculating the density for each portion as if it were a separate lot.

(c) When a combination use consists of a single-family detached, integrally designed subdivision and two (2) family or multi-family uses,

then the total density permissible on the entire tract shall be determined by dividing the area of the tract by the minimum area (in square feet) per dwelling unit specified in § 14-214(6).

(9) More specific use controls. Whenever a development could fall within more than one (1) use classification in the table of permissible uses, the classification that most closely and most specifically describes the development controls.

(10) Subject to all other applicable regulations found in this chapter all applications for a privately-owned recreational facility within a residential district shall have a minimum of fifteen (15) acres and have direct access to a public street with a street classification of minor collector or greater as determined by the city's street classification system found in the Maryville Road Plan.

(a) Proposed parking area(s) and any required landscaping regulated either by the landscaping ordinance found herein or as part of the approval process by the board.

(b) Hours of operation shall be between 8:00 A.M. to 9:00 P.M.

(c) Proposed location of all outdoor facilities (including, but not limited to, picnic tables, play areas, restroom, food preparation areas, and refuse areas).

(d) Sanitary sewer/sub-surface sewer shall be placed into service by the applicant in order to provided such services to users of the private recreational facility.

(e) Commercial design guidelines shall apply.

(f) Site plan approval. (1999 Code, § 14-210, as amended by Ord. #2019-22, Nov. 2019, 2021-05, March 2021, and Ord. #2024-09, May 2024)

14-211. Supplemental use regulations. (1) General provisions - planned residential developments. (a) Planned residential developments are permissible only on tracts of at least five (5) acres located within a Residential District or a Central Community District, when approved as special exceptions in an Impact Overlay Zone.

(b) The overall density of a tract developed as a planned residential development shall be determined as provided in § 14-214.

(c) Permissible types of residential uses within a planned residential development includes single-family detached dwellings, two (2) family residences, and multi-family residences. At least fifty percent (50%) of the total number of dwelling units must be single-family detached residences on lots of at least six thousand (6,000) square feet.

(d) A planned residential development shall be an integrally designed subdivision.

(e) To the extent practicable, the two (2) family and multi-family portions of a planned residential development shall be

developed more toward the interior than the periphery of the tract so that the single-family detached residences border adjacent properties.

(2) General provisions - planned unit developments. (a) In a planned unit development, the developer may make use of the land for any purpose authorized in a particular PUD-impact overlay zoning district in which the land is located, subject to the provisions of this chapter.

(b) Within any lot developed as a planned unit development, not more than thirty-five percent (35%) of the total lot area may be developed for higher density residential purposes, not more than ten percent (10%) of the total lot area may be developed for purposes that are permissible only in a Central Community District, and not more than five percent (5%) of the total lot area may be developed for uses permissible only in the Business and Transportation District (assuming the planned unit development - impact overlay allows such uses).

(c) The plans for the proposed planned unit development shall indicate the particular portions of the lot that the developer intends to develop for higher density residential purposes, lower density residential purposes, purposes permissible in the Central Community District (as applicable), and purposes permissible only in a Business and Transportation District (as applicable). For purposes of determining the substantive regulations that apply to the planned unit development, each portion of the lot so designated shall then be treated as if it were a separate district, zoned to permit, respectively, higher density residential, lower density residential, commercial or light industrial uses. However, only one (1) permit, a special exception for planned unit development impact overlay permit, shall be issued for the entire development.

(d) The nonresidential portions of any planned unit development may not be occupied until all of the residential portions of the development are completed or their completion is assured by a bond or like instrument to guarantee completion. The purpose and intent of this provision is to ensure that the planned unit development - impact overlay procedure is not used to create nonresidential uses in areas generally zoned for residential uses except as part of an integrated and well-planned, primarily residential development.

(3) General provisions - sexually-oriented businesses.

(a) Sexually-oriented businesses as defined in Ord. #99-18, the terms of which by reference are incorporated herein as fully as if set forth verbatim herein, shall be permitted only within the Business/Transportation Zone and shall not be permitted on any property which is within one thousand feet (1,000') of the following:

(i) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(ii) A public or private educational or child care facility, including, but not limited to, day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, colleges, and the school grounds of any such facility, provided that this requirement shall not apply to facilities used primarily for another purpose and only incidentally as a school;

(iii) A boundary of any residential zoning district or the property line of a lot devoted to a residential use, including single-family detached and attached dwellings, nursing homes and assisted living facilities;

(iv) A public or private park or recreational area which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas of other similar public land which is under the control, operation or management of any government park and recreation authority, private corporation or non-profit agency;

(v) An entertainment business which is oriented primarily towards entertainment for children or families, including, but not limited to, any business featuring movie theaters, game rooms which include games intended primarily for children, or other similar recreation or entertainment, or athletic facilities; or

(vi) A funeral parlor, mausoleum or cemetery.

(b) For the purpose of subsection (a) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually-oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (a) above. The distance requirements of this section shall only apply to properties within the city limits.

(c) A sexually-oriented business lawfully operating as a conforming use shall not be rendered a nonconforming use by the location, subsequent to the commencement of operations of the sexually-oriented business, of a use listed in subsection (a) above within one thousand feet (1,000') of the sexually-oriented business.

(d) No sexually-oriented business may be established or operated within one thousand feet (1,000') of a pre-existing sexually-oriented business. For the purpose of this subsection, the distance between any two (2) sexually-oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the nearest portion of the building

or structure used as the part of the premises where the pre-existing sexually-oriented business is conducted, to the nearest property line of the premises proposed for the location of a sexually-oriented business. No structure or parcel that contains any sexually-oriented business shall contain any other kind of sexually-oriented business.

(e) No sexually-oriented business may be enlarged so as to violate the provisions of this section.

(4) General provisions - commercial design criteria - city wide.

(a) The following items must be reviewed for compliance by the planning department before a building permit is issued. These standards shall apply to the design of all principal buildings and accessory structures. These guidelines shall not apply to single-family or duplex residential uses, nor do they apply in the downtown zones, industrial zones, or the Central Village Overlay Zone.

(i) Landscaping.

(A) At least thirty percent (30%) of each lot must be landscaped. Consideration will be given for redevelopment sites. Landscaping shall be selected and installed so that it will not block motorist visibility at the time of installation and at maturity. The majority of the landscaped area must be visible from the road.

(B) At least one (1), two-inch (2") caliper tree shall be planted on the parcel for every two thousand (2,000) square feet of building footprint and paved area (paved areas include private streets, parking spaces, driveways, and paved storage areas). Preservation of existing trees may be applied toward this requirement.

(ii) Parking.

(A) Large parking areas shall be organized into a series of smaller modules with landscaped islands consisting of trees and low shrubs separating them.

(B) Parking areas must provide safe, landscaped pedestrian access.

(C) Entrance drives shall be landscaped and continue existing sidewalks.

(iii) Facades and elevations.

(A) Facades shall provide fenestration toward pedestrian areas and streets for purposes of safety and aesthetics.

(B) Facades must not be monolithic; any of the following, or similar, design features may be used:

(1) Changes in surface planes.

(2) Porches.

(3) Awnings.

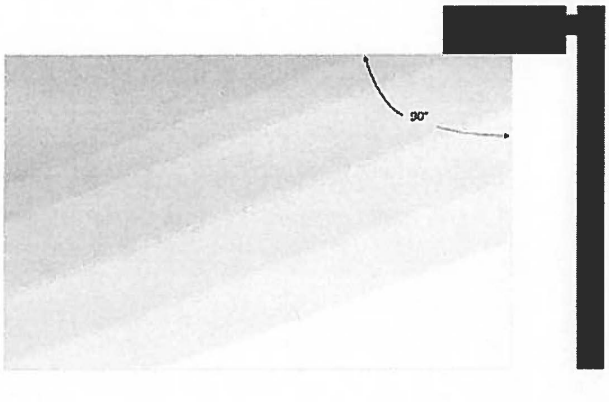
(4) Entry stairs.

(5) Doors.
(6) Windows.
(7) Chimneys.
(8) Changes in construction materials.
(9) Landscaping.
(10) Horizontal and vertical sun-shading devices, such as walls, canopies, and similar devices, that extend a minimum of three feet (3') beyond the wall or adjacent walls.

(C) Exterior walls visible from public roads may not be comprised of more than twenty-five percent (25%) of vertical surfaces with metal or flat-faced concrete block. Metal which has the appearance of wood or masonry may be considered for a greater percentage of the wall(s). Metal coping, scuppers, metal storefront framing systems supporting glass panels and similar appurtenances are allowed and shall not contribute toward the percentage of metal allowed.

(iv) Lights.

(A) Light fixtures that permit light to project up are prohibited. All outdoor light fixtures should be full-cutoff fixtures which do not allow light to be emitted above ni



(B) Fixtures used for architectural lighting, such as facade, feature, and landscape lighting, shall be aimed or directed to preclude light projection beyond immediate objects intended to be illuminated.

(C) External wall or roof-mounted floodlights shall not be installed on walls that face abutting residential uses unless landscaping or other means can be installed to shield the view of such lights from residential properties.

(D) Neon and bare fluorescent light tubes in any form on the exterior of a structure are prohibited.

(E) Light poles and fixtures shall be limited to a thirty foot (30') maximum height.

(F) Photometric plans may be required by planning staff to ensure lighting will not affect surrounding residential uses. Light trespass may not exceed one (1) foot-candle at any property line that adjoins residential uses or property zoned for residential uses.

(v) Fences. Fences shall be regulated by § 14-221.

(vi) Ancillary structures and equipment. HVAC equipment, above-ground grease traps, electric generators, fuel tanks, trash compactors, dumpsters, garbage containment areas, storage bins, trailers, elevated tanks, storage tanks, and similar ancillary structures and equipment shall be screened from adjacent residential uses and from public roads with landscaping, walls or fences. Screening shall conform to the requirements of § 14-221(8)(d). Such ancillary structures and equipment shall also meet building setbacks.

(vii) Personal storage developments. Personal storage or "mini-storage" buildings shall be sited such that the garage doors do not face roads unless developments are at an elevation significantly lower than roads or are behind landscaping whereby buildings are not visible from roadways. Such developments located on a corner must install a landscape buffer on a least one (1) property line to screen the row of storage buildings. The landscape buffer shall be comply with the landscaping requirements set forth in § 14-213.

(viii) Loading docks. Loading docks shall not be readily visible from public roads.

(ix) Stored material shall not be visible from public roads.

(x) Drive-through equipment. There shall be no outdoor drive-through menu boards, outdoor speaker equipment and drive-through windows located within one hundred sixty feet (160') from adjacent residential land uses.

(xi) Drive-through equipment. Drive-through windows and outdoor speaker equipment shall not be located within one hundred sixty feet (160') from adjacent residential land uses unless noise levels are demonstrated to register not more than fifty (50) dBA at the property line in common with the property with the residential land use.

(5) General provisions - commercial design criteria - Central Village Overlay Zone. (a) The following items must be reviewed for compliance by the planning department before a building permit is issued. These

standards shall apply to the design of all principal buildings and accessory structures used for non-residential land uses. These guidelines shall only apply in the Central Village Overlay Zone.

(i) Massing. Individual buildings shall not exceed an enclosed gross area of five thousand (5,000) square feet.

(ii) Setbacks. Setbacks from existing utility easements must be observed, otherwise:

(A) Front. For frontages on W. Broadway Avenue, a fifteen feet (15') minimum measured from the back of the curb is allowed, unless the right-of-way is greater than fifteen feet (15') from the curb. In this instance, the right-of-way would be the minimum setback. If a patio, drive lane, landscaped area, or other aesthetic feature is placed between the sidewalk and building, then a thirty foot (30') maximum measured from the back of the curb is allowed. A fifty foot (50') maximum setback measured from the back of the curb may be allowed if a drive lane and a single row of parking is used in the site design. Any setback greater than thirty feet (30') will require a special exception. Drive lanes and front parking are subject to screening requirements below.

(B) All setbacks from street rights-of-way shall use the "front" setback.

(iii) Building height. Building height is limited to three (3) stories, not to exceed forty-five feet (45').

(iv) Open space. The maximum lot coverage shall be eighty percent (80%) with open space comprising the remaining twenty percent (20%) of the site.

(v) Landscaping.

(A) At least twenty percent (20%) of each lot must be landscaped. The majority of the landscaped area must be visible from the road. Consideration will be given for redevelopment sites.

(B) At least one (1), two-inch (2") caliper tree shall be planted on the parcel for every one thousand (1,000) square feet of building footprint and paved area (paved areas include private streets, parking spaces, driveways, and paved storage areas). Preservation of existing trees may be applied toward this requirement.

(vi) Parking. A single row of parking may be allowed between the building and the sidewalk for lots that front Broadway Avenue and shall be subject to screening requirements below. Additional parking is allowed on the side or rear of the building.

(vii) Screening. Vehicular movement areas must be screened from sidewalks with a brick or stone wall (not cinder block), a wrought iron fence (or other fence materials that are visually similar to wrought iron), and/or landscaping. This is required to establish/maintain an edge to the street consistent with the rest of the district. The brick or stone portion of the wall or fence may not be taller than forty inches (40"). Fences and walls with fences on top shall not exceed six feet (6') in height.

(viii) Facades and elevations.

(A) Facades shall provide fenestration toward pedestrian areas and streets for purposes of safety and aesthetics.

(B) Facades must not be monolithic; any of the following, or similar, design features may be used:

(1) Changes in surface planes.

(2) Porches.

(3) Awnings.

(4) Entry stairs.

(5) Doors.

(6) Windows.

(7) Chimneys.

(8) Changes in construction materials.

(9) Landscaping.

(10) Horizontal and vertical sun-shading devices, such as walls, canopies, and similar devices, that extend a minimum of three feet (3') beyond the wall or adjacent walls. Excessive repetition of only one (1) or two (2) architectural features above is prohibited.

(ix) Materials.

(A) Natural stone, brick, wood and fiber-cement siding that resembles horizontal lap siding should be used for all buildings.

(B) Veneer materials are not allowed (i.e., vinyl siding, metal facade covering, stucco, and synthetic stucco).

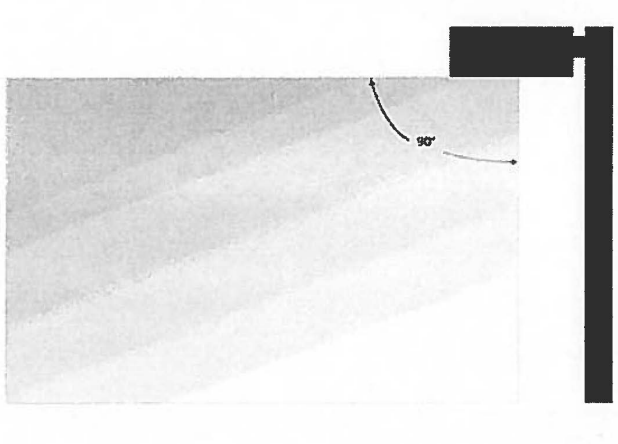
(C) Synthetic materials and stucco may only be allowed on a limited basis for accent, trim and cornices.

(x) Site lighting.

(A) Light posts. Light posts that will be visible from adjacent residential properties shall not exceed fifteen feet (15') in height and shall have a dark finished paint color such as dark gray, dark brown, dark green or black.

(B) Lights.

(1) Light fixtures that permit light to project up are prohibited. All outdoor light fixtures should be full-cutoff fixtures which do not allow light to be emitted above ninety (90) degrees (see illustration below).



(2) Light fixtures used for architectural lighting, such as facade, feature, landscape and sign lighting, shall be aimed or directed to preclude light projection beyond immediate objects intended to be illuminated.

(3) External wall or roof mounted flood lights shall not be installed on walls that face abutting residential uses without landscaping or other means to shield the view of such lights from residential properties.

(4) Neon and bare fluorescent light tubes in any form on the exterior of a building or any other structure is prohibited.

(5) Animated lights. Flashing, blinking, strobe, neon, and searchlights are prohibited. Neon and other types of strings of lights that are located either inside and/or outside of windows and doors are prohibited.

(C) Photometric plans may be required by planning staff to ensure lighting will not affect surrounding residential uses. Light trespass may not exceed one (1) foot-candle at any property line that adjoins residential uses or property zoned for residential uses.

(xi) Fences. Fences shall be regulated by § 14-221.

(xii) Signs.

(A) Freestanding signs shall be no higher than eight feet (8').

(B) Signs attached to buildings shall be no higher than twelve feet (12').

(C) Signs shall be constructed of natural materials (such as wood, brick, or stone) or constructed of materials that successfully simulate these natural materials.

(D) Signs must not be internally lit and the bulb(s) of proposed lighting must not be seen directly by motorists or adjacent residential property owners.

(E) The maximum area of freestanding signs is calculated as twenty-five percent (25%) of the property frontage. Freestanding signs shall not exceed twenty (20) square feet. Total signage area shall not exceed fifty (50) square feet regardless of property frontage.

(xiii) Ancillary structures and equipment. HVAC equipment, above ground grease traps, electric generators, fuel tanks, trash compactors, dumpsters, garbage containment areas, storage bins, and similar ancillary structures and equipment shall be screened from public roads and residential uses with landscaping, walls, or fences. Proposed screening, ancillary structures, and equipment shall be submitted for staff review before installation.

(xiv) Storage developments. Personal storage or "mini-storage" buildings are prohibited.

(xv) Loading docks. Loading docks that face public roads must be screened using landscaping or architectural features.

(xvi) Stored material shall not be visible from public roads.

(xvii) Drive-through equipment. There shall be no outdoor drive-through menu boards, outdoor speaker equipment, and drive-through windows.

(6) Adult day care as a special exception use and in existing health care facilities. (a) The following items must be reviewed and approved by the board of zoning appeals during the review of a special exception request to locate an adult day care within the Central Community Zoning District.

(i) All new construction for adult day care facilities shall be subject to the commercial design guidelines and regulations found in § 14-211(5) of this chapter. Existing facilities shall comply with the requirements outlined in the commercial design standards as closely as possible.

(ii) Proposed parking area(s) and any required landscaping regulated either by the landscaping provisions found herein or as part of the approval process by the board of appeals.

(iii) The total lot area shall not be less than fifteen thousand (15,000) square feet. No adult day care operation or service shall be conducted in any accessory building to the primary structure on the lot.

(iv) Off-street parking for new construction of adult day care facilities regulated in the parking provision of this chapter. Existing structures renovated for an adult day care land use shall provide parking, safe loading and unloading areas for clients, as well as safe ingress and egress to the property. Ingress and egress and circulation of vehicles on the property shall be reviewed by the city's engineering department.

(v) Any approval of an adult day care facility shall state the maximum number of clients to be kept at the facility structure.

(vi) Adult day care operations must be licensed by the State of Tennessee Department of Human Services if the operation provides a service for five (5) or more clients, for less than twenty-four (24) hours.

(b) An existing health care facility may offer adult day care regardless of the zoning district it is located in, as long as the care does not exceed twenty-four (24) hours. Applicable building regulations may apply to the adult day care if modifications, construction, or retrofitting is necessary to accommodate the referenced use.

(7) General provisions - continuous care facility of community.

(a) Subject to other provisions and densities of this chapter, the overall density for all uses within the CCRC shall not exceed twelve (12) units per acre. The minimum acreage for the entire development must be fifteen (15) acres in size.

(b) Within any CCRC:

(i) The number of units for nursing care cannot exceed the number of planned non-licensed and/or non-regulated single-family residential units;

(ii) The total developed gross floor area of all state-licensed facilities shall not exceed twenty-two percent (22%) of the total site area;

(iii) Maximum ground floor area developed shall preserve as open space seventy percent (70%) of the total site area (the required open space can be used for landscaping, pedestrian features, site circulation, parking, landscape screens, setbacks, detention ponds, open-air recreation, and other similar uses); and

(iv) The total developed gross floor area of the CCRC shall not exceed thirty-five percent (35%) of the total site.

(c) Any detached non-residential portion of a continuing care retirement community, as approved by the board of appeals, may not be occupied until the approved phase of the development is eighty percent (80%) constructed or completion of the approve phase is assured by mechanisms provided for in § 14-204(13) to guarantee completion. The foregoing limitation does not apply to the following uses: clubhouse, maintenance or service buildings of the CCRC and not for the community-at-large, and like uses. Accessory use buildings shall not exceed five percent (5%) of the total ground floor area.

(d) No building over thirty-five feet (35') in height shall be built within fifty feet (50') of a residential lot line of an adjacent residential lot. Further, no building over thirty-five feet (35') in height shall be built within one hundred fifty feet (150') of any public right-of-way or proposed public right-of-way fifty feet (50') in width or greater.

(8) General provisions - gathering place special exception. The following items must also be reviewed by the board of zoning appeals in reviewing a "gathering place" special exception request:

(a) Traffic volumes and associated turning movements at the property and to be provided by the applicant's engineers.

(b) Proposed location of all outdoor facilities (including, but not limited to, such items as picnic tables, play areas, restrooms, food preparation areas, refuse areas).

(c) Hours of operation. In no case shall any activity be conducted beyond 12:00 A.M. on any night of the week.

(d) Proposed parking area(s) and any required landscaping regulated either by the landscaping ordinance found herein or as part of the approval process by the board.

(e) Setbacks of the proposed special exception.

(f) Height of all structures proposed and associated with the special exception use being reviewed by the board.

(g) Amplifying equipment located outside the structure is allowed as long as it does not create a nuisance to adjacent property owners or otherwise violate the anti-noise ordinance of the City of Maryville.

(h) Any sign allowed for the proposed use must meet the Maryville sign regulations. In no case shall an off-premises sign be allowed. Any lighting of a sign for the on-site business must illuminate only the sign itself. No sign which is displayed on any vehicle may be located near the entrance to the property on an intermittent or ongoing basis.

(i) No flashing or blinking light, strobe lights, or search lights shall be allowed.

(j) The driveway entrance to the property shall be landscaped for at least the first fifty feet (50') (measured from the right-of-way).

(9) General provisions - tearoom/café in office district special exception.

(a) The following items must be reviewed and approved by the board of zoning appeals during review of a special exception to locate a tearoom/café in the office district:

(i) Proposed location of all outdoor facilities, parking, landscaping suitable to screen the view of parking from adjoining existing single-family and duplex land uses, existing trees and landscaping to be removed, outdoor seating areas, and refuse areas;

(ii) Proposed parking area(s). The number of required paved parking spaces for non-residential use in the Oak Park Historic District may be phased, if approved as a condition by the board of zoning appeals, as follows: The property must provide a minimum of fifty percent (50%) of the required parking spaces and circulation lanes with a paved non-erosive material and the remainder of the required spaces must be stabilized with grass, pavers or a combination thereof. However, gravel or other such loose aggregates is not acceptable material for the parking area. At any time the board of zoning appeals determines that the non-paved areas become deteriorated beyond the point of a safe and convenient condition, the property owner must pave such lots within sixty (60) day of notice by the city;

(iii) Location of proposed new construction or additions; and

(iv) Height of all proposed new structures or additions.

(b) Dumpsters are not required if the tearoom/café is able to use a sufficient number of roll-out residential garbage containers. Proposed dumpsters must be screened from public roads and adjacent single-family uses using architectural and landscape screening, but flat-faced block is not allowed. The open end of the dumpster shall not be visible from public view or from adjacent single-family uses.

(c) The majority of proposed tearoom/café activities shall be provided within existing structures. Additions and outside dining areas are permissible. However, such additions and outside dining shall not exceed twenty-five percent (25%) of the square footage of the original structure used for a tearoom/café use.

(d) There shall be no amplifying equipment located outside of the structures.

(e) No flashing or blinking lights, strobe lights, neon lights or search lights shall be allowed.

(f) The driveway entrance to the property shall be reviewed by the city director of engineering and public works and, when deemed necessary, shall be improved by the property owner.

(g) There shall be no outdoor drive-through menu boards or speaker equipment.

(h) The maximum ground floor area developed shall preserve as open space thirty percent (30%) of the total site area (the required open space does not include parking areas, but may include landscaping and sidewalks).

(i) Additions, site modifications, including new parking areas and driveways, are subject to the required landscaping buffer pursuant to § 14-213(5). However, property owners may propose alternative landscape buffers for board review if the buffer meets or exceeds the required screening opacity.

(j) Freestanding signs shall be no higher than eight feet (8') and at least eighteen feet (18') from the sidewalk. Signs in residential and office areas shall be no higher than twelve feet (12') when attached to buildings. Signs shall be constructed of natural materials (such as wood, brick or stone) or constructed of materials that successfully replicate these natural materials. Signs must not be internally lit and the bulb(s) of proposed lighting must not be seen directly by motorists or adjacent residential property owners.

(k) There shall be no mechanical equipment located outside the structure where sound produced by the equipment will be detected by adjacent residential property owners.

(l) Bright lights shall not be installed on the side of buildings that create direct bright light to be visible from adjacent residential property owners. Such lights are commonly referred to as "pack lights" and floodlights. Light posts that will be visible from adjacent residential property owners shall not exceed twelve feet (12') in height and shall have a dark finished paint color such as dark gray, dark brown, dark green or black.

(m) Hours of operation in no case shall occur outside the hours of 10:00 A.M. until 2:00 P.M. and 5:00 P.M. until 7:00 P.M. Occasional dinners may be served to small parties of patrons not to exceed the hours of operation past 10:00 P.M.

(10) General provisions - auto body repair shop. The following items shall apply to all auto body facilities and must be observed before any auto body business begins operation.

(a) Auto body shops, specific to damage or collision repair of motor vehicles, shall be allowed according to the land use table or description of districts found within this chapter.

(b) All auto body repairs of damaged vehicles and like services shall be conducted entirely within the confines of the structure.

(c) Damaged or partially disassembled vehicles, as well as parts, replacement parts, tires, or similar materials shall be kept within the structure or behind a screen or fence conforming to the commercial

fence regulations found in § 14-221(8) of Maryville Zoning and Land Use Chapter. No wrecked or damaged vehicle may be parked or stored upon a trailer or a tow truck unless it is located behind said screen or fence.

(d) All new construction specific to auto body repair shops shall be subject to these regulations and all commercial design guideline requirements found within this chapter. Retrofitted structures or sites for motor vehicle damage and collision repair shall be subject to fencing guidelines and other applicable regulations.

(e) All auto body repair shops for damage and collision repair shall be permitted within the acceptable zoning districts as long as such uses are located along an arterial designated road as classified on the city's official major road plan. This provision shall not apply to operations located within designated industrial parks or properties zoned "Industrial."

(f) For the purpose of this section only, body work, auto body repair and motor vehicle repair shall not include the painting of vehicles or vehicle parts on site.

(11) Standards for the development of new, expanded or upgraded park, recreational and athletic facilities. Park, recreational and athletic facilities are important to the quality of life in Maryville and their development should keep pace with the needs of the community. These facilities can generally be located in various zoning districts upon review as special exception uses by the board of zoning appeals. When new facilities are planned or existing facilities are expanded or upgraded, they will be reviewed by an ad hoc committee organized by the city to ensure that these amenities will be compatible with, and respectful of, their immediate surroundings.

(a) Lighted outdoor park, recreational and athletic facilities. When these facilities are lighted for nighttime use, not only are the daytime effects of the activities extended into the evening hours, but the issue of "light trespass" must also be considered. Effective management of this issue can take several forms, including planning for a physical separation between new facilities and existing sensitive land uses, providing buffering between activity centers and adjoining properties, matching the height of the light poles to the needs of the activity being lit, and using the full-cutoff (shielded) type of luminaries.

(b) The differing nature of individual sports and activities dictates how tall the light poles should be in order to provide adequate light on the field/court to safely accommodate the activity and to help avoid glare and control light trespass onto adjoining properties. Most sports require pole heights that exceed the city's general limit for specific sports supercede the general standard found in § 14-211(5)(iv) of the Maryville Municipal Code:

Type of Activity	Not to Exceed*
Football, soccer, lacrosse, etc.	80 feet
Baseball (high school or college)	70 feet
Softball, little league baseball	60 feet
Tennis, basketball	40 feet
Track, swimming pools, playgrounds	30 feet

* If the circumstances at a specific site justify a taller pole(s), the board of zoning appeals can hear and decide a variance request.

(c) All new luminaries shall be of the full-cut (shielded) type, specifically designed for athletic use. As the existing old style (unshielded) luminaries are removed from service, they shall be replaced with the modern full-cutoff type, if feasible from a budget standpoint.

(d) General city zoning regulations (Maryville Municipal Code § 14-213(6)(c)) require landscaping and screening between "activity centers" (which include athletic fields, etc.) and adjoining residential properties, and remain in effect under this section of the municipal code.

(12) Bed and breakfast homestay facilities. (a) A Bed & Breakfast (B&B) facility is defined as a private single-family residence that contains no more than three (3) guest rooms and which offers sleeping accommodations and breakfast to transient tenants only for compensation. For the purposes of this section, a B&B facility is what *Tennessee Code Annotated*, §§ 68-14-501, *et seq*., refers to as a "bed and breakfast homestay," subject to the following local regulations:

(i) The proprietor of the B&B must be a permanent resident of the structure, and maintain living quarters separate from the guest rooms.

(ii) No more than two (2) non-residents may be employed to work at the B&B.

(iii) Only one (1) sign, not to exceed six (6) square feet in area may be used to identify the B&B. If illuminated, the sign shall be only externally illuminated and not internally illuminated.

(iv) One (1) off-street parking space must be provided for each guest room. These space(s) must be in addition to the required parking for the residence. These space(s) must not be developed in the front yard of the residence, but may be located in the existing driveway of the residence if adequate area is available. City staff can require the B&B parking space(s) to be screened from adjoining residences, if applicable, or if otherwise required by the terms of the zoning ordinance.

(v) "Events" (weddings, receptions, meetings, conferences, etc.) shall not be held at B&B locations unless it is determined by staff that adequate parking is available and that

such events would not be incompatible with the surrounding development.

(vi) The B&B must meet all other applicable city codes and regulations including building codes and life safety regulations.

(b) B&Bs may be developed by right in private single-family residences located in the various zones in, and immediately adjacent to, the downtown area, including:

(i) Central Business District;

(ii) Central Business Support District;

(iii) Washington Street Commercial Corridor District;

(iv) Heritage Development District;

(v) Office Transition District; and

(vi) Central Community District.

(c) If the situation arises where the staff and an applicant cannot agree upon the interpretation of any provision in this section, either party may appeal the matter to the Maryville Board of Zoning Appeals, following the established procedures of the board and the code.

(13) Manufacturing/processing performance standards - electrical disturbance or interference. No manufacturing, processing or assembling use may create any electrical disturbance that adversely affects any operation or equipment other than those of the creator of such disturbance, or otherwise cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

(14) Wireless telecommunication towers and antennas - purpose. The purpose of this subsection is to establish general guidelines for the siting of wireless communication towers and antennas. The goals of this subsection are to:

(a) Protect residential areas and land uses from potential adverse impacts of towers and antennas;

(b) Encourage the location of towers in non-residential areas;

(c) Minimize the total number of towers throughout the community;

(d) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

(e) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

(f) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and

antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

(g) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

(h) Consider the public health and safety of communication towers; and

(i) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the city council shall give due consideration to the City of Maryville's master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

(15) Wireless telecommunication towers and antennas - definitions. As used in this chapter, the following terms shall have the meanings set forth below:

(a) "Alternative tower structure" means human-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

(b) "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

(c) "Backhaul network" means the lines that connect a provider's towers/cell sites to one (1) or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

(d) "FAA" means the Federal Aviation Administration.

(e) "FCC" means the Federal Communications Commission.

(f) "Height" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

(g) "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

(16) Wireless telecommunication towers and antennas - applicability.

(a) New towers and antennas. All new towers or antennas in the City of Maryville shall be subject to these regulations, except as provided in subsections (15)(b) through (d), inclusive.

(b) Amateur radio station operator/receive only antennas. § 14-211(15) shall not govern any tower, or the installation of any antenna, that is under forty feet (40') in height and is owned and operated by an amateur radio station operator or is used exclusively for receive only antennas. All other applicable regulations to towers forty feet (40') and found within this section shall continue to apply.

(c) Pre-existing towers or antennas. Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this chapter, other than the requirements of subsections (15)(f) and (15)(g).

(d) AM array. For purposes of implementing this subsection, an AM array, consisting of one (1) or more tower units and supporting ground system which functions as an AM broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

(17) Wireless telecommunication towers and antennas - general requirements. (a) Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

(b) Lot size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including, but not limited to, setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

(c) Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the zoning administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, including specific information about the location, height, and design of each tower, that are within the jurisdiction of the City of Maryville. The zoning administrator may share such information with other applicants applying for administrative approvals or special use permits under this subsection or other organizations seeking to locate antennas within the jurisdiction of the City of Maryville, provided, however, that the zoning administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable for tower construction.

(d) Aesthetics. Towers and antennas shall meet the following requirements:

(i) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

(ii) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

(iii) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(iv) The use of stealth type hidden/disguise antennas are to be encouraged by any applicant and given preference for a tower building permit in any area near a residential zone.

(e) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. Where lighting is required by FAA such lighting shall be of the "dual lighting" provisions as defined by the FAA (white during the day and red during the evening hours) or in the alternative, the structure may be red lighted and marked (painted) as prescribed by the FAA regulations. White flashing lighting at night is strictly prohibited under this subsection.

(f) State or federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this subsection shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(g) Building codes: safety standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time

to time. If, upon inspection, the City of Maryville concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(h) Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City of Maryville irrespective of municipal and county jurisdictional boundaries.

(i) Franchises. Owners and/or operators of towers or antennas shall certify that all franchises, authorizations, licenses, and/or permits required by law for the construction and/or operation of a wireless communication system in the City of Maryville have been obtained and shall file a copy of all required franchises with the city.

(j) Public notice. For purposes of this chapter, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in subsection (21)(b)(v)(B), Table 2 below, in addition to any notice otherwise required by the zoning ordinance.

(k) Signs. No signs shall be allowed on an antenna or tower except for any structure identification sign as may be required by the FCC or the FAA. Such sign is not to exceed ten inches (10") by fifteen inches (15") and is to be mounted at the base of the structure no higher than six feet (6') feet from the ground.

(l) Buildings and support equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of this subsection (18).

(m) Multiple antenna/tower plan. The City of Maryville encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

(18) Wireless telecommunication towers and antennas - exceptions. The provisions of this section shall not apply to:

(a) Antennas or towers located on property owned, leased, or otherwise controlled by the city and under forty feet (40') in height.

(b) Antennas or towers located on property owned, leased, or otherwise controlled by the city and over forty feet (40') in height, and in accordance with subsection (18)(a) and (b) of this section.

(19) Wireless telecommunication towers and antennas administratively approved uses. (a) General. The following provisions shall govern the issuance of administrative approvals for towers and antennas.

(i) The administrator may administratively approve the uses listed in this section.

(ii) Each applicant for administrative approval shall apply to the administrator providing the information set forth in subsections (20)(b)(i) and (20)(b)(iii) of this section and a nonrefundable fee as established by resolution of the city council to reimburse the City of Maryville for the costs of reviewing the application.

(iii) The administrator shall review the application for administrative approval and determine if the proposed use complies with subsections (20)(b)(iv) and (20)(b)(v) of this section.

(iv) The administrator shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the administrator fails to respond to the applicant within said sixty (60) days, then the application shall be deemed to be approved.

(v) In connection with any such administrative approval, the administrator may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

(vi) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to subsection (20)(a)(vii) of this section and other applicable provisions of the special use permit found in § 14-204(9).

(b) List of administratively approved uses. The following uses may be approved by the administrator after conducting an administrative review:

(i) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any business/transportation zone (excluding the Parkway Overlay District).

(ii) Locating antennas on existing structures or towers consistent with the terms of subsections (A) and (B) below:

(A) Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the administrator as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight (8) or more dwelling units, provided:

(1) The antenna does not extend more than thirty feet (30') above the highest point of the structure;

(2) The antenna complies with all applicable FCC and FAA regulations; and

(3) The antenna complies with all applicable building codes.

(B) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one (1) carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

(1) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the administrator allows reconstruction as a monopole.

(2) Height.

(a) An existing tower may be modified or rebuilt to a taller height, not to exceed thirty feet (30') over the tower's existing height, to accommodate the collocation of an additional antenna.

(b) The height change referred to in subsection (iii)(A) below may only occur one (1) time per communication tower.

(c) The additional height referred to in subsection (iii)(A) below shall not require an additional distance separation as set forth in (7). The tower's premodification height shall be used to calculate such distance separations.

(3) On-site location.

(a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on-site within fifty feet (50') of its existing location.

(b) After the tower is rebuilt to accommodate collocation, only one (1) tower may remain on the site.

(c) A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to subsection (21)(b)(v) below. The relocation of a tower hereunder shall in no way be deemed to cause a violation of subsection (21)(b)(v) below.

(d) The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in subsection (21)(b)(v) below shall only be permitted when approved by the administrator.

(iii) New towers in non-residential zoning districts. Locating any new tower in a non-residential zoning district other than Business/Transportation District (excluding the Parkway District); provided, a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the administrator concludes the tower is in conformity with the goals set forth in (10) above and the requirements of (14) above; the tower meets the setback requirements in subsection (21)(b)(iv) below and separation distances in subsection (21)(b)(v) below and all other provisions in subsection (17) above; and the tower meets the following height and usage criteria:

(A) For a single user, up to ninety feet (90') in height;

(B) For two (2) users, up to one hundred twenty feet (120') in height; and

(C) For three (3) or more users, up to one hundred fifty feet (150') in height.

(iv) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the administrator is in conformity with the goals set forth in (10) above of this section.

(v) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(20) Wireless telecommunication towers and antennas - special use permits. (a) General. The following provisions shall govern the issuance of special use permits for towers or antennas by the board of zoning appeals.

(i) If the tower or antenna is not a permitted use under subsection (15) above of this section or permitted to be approved administratively pursuant to subsection (20) above of this section, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning district classifications.

(ii) Applications for special use permits under this section shall be subject to the procedures and requirements of § 14-204(9) of this chapter, except as modified in this section

(iii) In granting a special use permit, the board of zoning appeals may impose conditions to the extent the board of zoning appeals concludes such conditions are necessary to minimize adverse effects of the proposed tower on adjoining properties.

(iv) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer under the guidelines of the State of Tennessee for such certifications.

(v) An applicant for a special use permit shall submit the information described in this section and a non-refundable fee as established by resolution of the city council to reimburse the City of Maryville for the costs of reviewing the application.

(b) Towers.

(i) Information required. In addition to any information required for applications for special use permits pursuant to § 14-204(9) of this chapter, applicants for a special use permit for a tower shall submit the following information:

(A) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable separation distances set forth in subsection (21)(b)(v) below, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the administrator to be necessary to assess compliance with this subsection.

(B) Legal description of the parent tract and leased parcel (if applicable).

The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

(C) The separation distance from other towers described in the inventory of existing sites submitted pursuant to subsection (18)(c) above shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

(D) A landscape plan showing specific landscape materials.

(E) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

(F) A description of compliance with subsections (18)(c), (d), (e), (f), (g), (j), (l), and (m), (21)(b)(iv), (21)(b)(v) above and all applicable federal, state or local laws.

(G) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

(H) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

(i) A description of the feasible location(s) of future towers or antennas within the City of Maryville based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

(J) A copy of the stress analysis of the proposed structure including reasonably anticipated loads of additional users, and certified by a State of Tennessee licensed professional engineer.

(ii) Factors considered in granting special use permits for towers. In addition to any standards for consideration of special use permit applications pursuant to § 14-204(9), the board of zoning appeals shall consider the following factors in determining whether to issue a special use permit, although the board of zoning appeals may waive or reduce the burden on the applicant of one (1) or more of these criteria if the board of zoning appeals concludes that the goals of this subsection are better served thereby:

(A) Height of the proposed tower;

(B) Proximity of the tower to residential structures and residential district boundaries;

(C) Nature of uses on adjacent and nearby properties;

(D) Surrounding topography;

(E) Surrounding tree coverage and foliage;

(F) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

(G) Proposed ingress and egress; and

(H) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in subsection (21)(b)(iii) below of this section.

(iii) Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the board of zoning appeals that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the board of zoning appeals related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

(A) No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.

(B) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

(C) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

(D) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

(E) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(F) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(G) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(H) Self supporting structures are to be encouraged over guyed towers. Applicant must demonstrate that a self-supported structure is not feasible before any guyed tower will be approved.

(iv) Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the board of zoning appeals may reduce the standard setback requirements if the goals of this subsection would be better served thereby:

(A) Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.

(B) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

(v) Separation. The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the board of zoning appeals may reduce the standard separation requirements if the goals of this subsection would be better served thereby.

(A) Separation from off-site uses/designated areas.

(1) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.

(2) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

Off-site Use/Designated Area	**Separation Distance**
Single-family or duplex residential units	200 feet or 300% height of tower, whichever is greater

Table 1:

Off-site Use/Designated Area	Separation Distance
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower, whichever is greater
Vacant unplatted residentially zoned lands	200 feet or 200% height of tower, whichever is greater
Existing multi-family residential units greater than duplex units	200 feet or 100% height of tower, whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

(B) Separation distances between towers. Separation distances between towers shall be applicable for, and measured between, the proposed tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2:

Existing Towers - Types

	Lattice	Guyed	Monopole 75 ft. in height or greater	Monopole less than 75 ft. in height
Lattice	5,000	5,000	5,000	750
Guyed	5,000	5,000	5,000	750
Monopole 75 ft. in height or greater	1,500	1,500	1,500	750
Monopole less than 75 ft. in height	750	750	750	750

(vi) Security fencing. Towers shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the board of zoning appeals may waive such requirements, as it deems appropriate.

(vii) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the board of zoning appeals may waive such requirements if the goals of this section would be better served thereby.

(A) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the compound.

(B) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

(C) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(21) Wireless telecommunication towers and antennas - buildings or other equipment storage. (a) Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:

(i) The cabinet or structure shall not contain more than one hundred (100) square feet of gross floor area or be more than twelve feet (12') in height. In addition, for buildings and structures which are less than sixty-five feet (65') in height, the related unmanned equipment structure, if over one hundred (100) square feet of gross floor area or twelve feet (12') in height, shall be located on the ground and shall not be located on the roof of the structure.

(ii) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten percent (10%) of the roof area.

(iii) Equipment storage buildings or cabinets shall comply with all applicable building codes.

(b) Antennas mounted on utility poles or light poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

(i) In residential districts, the equipment cabinet or structure may be located:

(A) In a front or side yard; provided, the cabinet or structure is no greater than twelve feet (12') in height or one hundred (100) square feet of gross floor area and the cabinet/structure is located a minimum of twenty-five feet (25') from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least forty-two to forty-eight inches (42-48") and a planted height of at least thirty-six inches (36").

(B) In a rear yard; provided, the cabinet or structure is no greater than twelve feet (12') in height or one hundred (100) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight feet (8') and a planted height of at least thirty-six inches (36").

(ii) In business/transportation districts the equipment cabinet or structure shall be no greater than twenty feet (20') in height or two hundred (200) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight feet (8') and a planted height of at least thirty-six inches (36"). In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six feet (6') in height or an evergreen hedge with ultimate height of twelve feet (12') and a planted height of at least thirty-six inches (36").

(c) Equipment structures to be located on towers. The related unmanned equipment structure shall not contain more than one hundred (100) square feet of gross floor area or be more than twelve feet (12') in height, and shall be located no closer than forty feet (40') from all lot lines.

(d) Modification of building size requirements. The requirements of subsection (18)(a) through (c) above may be modified by the administrator in case of administratively approved uses or by the board of zoning appeals in case of uses permitted by special use to encourage collocation.

(22) Wireless telecommunication towers and antennas - removal of abandoned antennas and towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City of Maryville notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's

expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users abandon the tower.

(23) Wireless telecommunication towers and antennas - nonconforming uses. (a) Pre-existing towers. Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such pre-existing towers. New construction other than routine maintenance on a pre-existing tower shall comply with the requirements of this section. Any expansion of an existing use shall be reviewed and permitted according to the terms of this section.

(b) Rebuilding damaged or destroyed nonconforming towers or antennas. Notwithstanding subsection (19) above, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in subsections (21)(b)(iv) and (21)(b)(v) above. The type, height, and location of the tower on-site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in subsection (19) above.

(24) Wireless telecommunication towers and antennas - severability. The various parts, sections and clauses of this section are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the section shall not be affected thereby.

(25) Wireless telecommunication towers and antennas - repealer. Any ordinances or parts thereof in conflict with the provisions of this section are hereby repealed to the extent of such conflict only as pertaining to the subject matter of this section.

(26) Small wireless facilities in the public rights-of-way. (a) Purpose and scope.

(i) Purpose. In accordance with *Tennessee Code Annotated*, §§ 13-24-401, *et seq*., known as "Competitive Wireless Broadband Investment, Deployment, and Safety Act of 2018," the purpose of this subsection is to establish policies and procedures for the placement of small wireless facilities in the public rights-of-way within the city's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the city's rights-of-way and to the city as a whole.

(ii) Intent. In enacting this subsection, the city is establishing uniform standards to address issues presented by small wireless facilities, including, without limitation, to:

(A) Prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;

(B) Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

(C) Prevent interference with the facilities and operations of facilities lawfully located in public rights-of-way or public property;

(D) Protect against environmental damage, including damage to trees;

(E) Preserve the character of the neighborhoods in which facilities are installed; and

(F) Facilitate rapid deployment of small wireless facilities to provide the benefits of advanced wireless services.

(b) Definitions. The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

(i) "Aesthetic requirements." Any aesthetic requirements and guidelines for small wireless facilities as defined in this subsection.

(ii) "Annual lease fee." The fee due to the city for the reimbursement for the installation of a small wireless facility on city property irrespective of whether the property is owned, leased, or within the public right-of-way. Each installation/spot is a separate annual lease fee.

(iii) "Antenna." Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

(iv) "Applicable codes." Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons to the extent not inconsistent with the terms of this subsection.

(v) "Applicant." Any person who submits an application pursuant to this subsection.

(vi) "Application." A request submitted by an applicant to the City of Maryville:

(A) For a permit to deploy or collocate small wireless facilities in the City of Maryville right-of-way; or

(B) To approve the installation or modification of a utility pole or Potential Support Structure (PSS) associated with deployment or colocation of small wireless facilities in the right-of-way.

(vii) "Authority-owned PSS or city-owned PSS." A PSS owned or leased by the city in the rights-of-way, including a utility pole that provides lighting, including light poles and structures for signage and a pole or similar structure owned/leased by the city in the rights-of-way that supports only wireless facilities. Authority-owned PSS does not include a PSS owned by a distributor of electric power, regardless of whether an electric distributor is investor-owned, cooperatively-owned, or government-owned.

(viii) "City." City of Maryville, Tennessee.

(ix) "Collocate, collocating, and collocation." In their respective noun and verb forms, to install, mount, maintain, modify, operate, or replace small wireless facilities on, adjacent to, or related to a PSS. "Collocation" does not include the installation of a new PSS or replacement of authority-owned PSS.

(x) "Communications facility." The set of equipment and network components, including wires and cables and associated facilities, used by a communications service provider to provide communications service.

(xi) "Communications service." Cable service as defined in 47 U.S.C. § 522(6), telecommunications service as defined in47 U.S.C. § 153(53), information service as defined in 47 U.S.C. § 153(24) or wireless service.

(xii) "Communications service provider." A cable operator as defined in 47 U.S.C. § 522(5), a telecommunications carrier as defined in47 U.S.C. § 153(51), a provider of information service as defined in 47 U.S.C. § 153(24), a video service provider as defined in *Tennessee Code Annotated*, § 7-59-303, or a wireless provider.

(xiii) "Day." Calendar day.

(xiv) "Fee." A one (1) time, non-recurring charge.

(xv) "Historic district." A property or area zoned as a historic district or zone pursuant to *Tennessee Code Annotated*, § 13-7-404.

(xvi) "Micro wireless facility." A small wireless facility that:

(A) Does not exceed twenty-four inches (24") in length, fifteen inches (15") in width, and twelve inches (12") in height; and

(B) The exterior antenna, if any, does not exceed eleven inches (11") in length.

(xvii) "Permitted." An applicant who is party to an agreement or has been granted a permit.

(xviii) "Person." An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.

(xix) "Pole attachment agreement." Standard form contract or contracts between the City of Maryville Electric Department and a telecommunications operator which identifies additional terms and conditions governing the process under which the operator would be permitted to attach facilities to poles.

(xx) "Potential support structure for a small wireless facility or PSS." A pole or other structure used for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, including poles installed solely for the colocation of a small wireless facility. When "PSS" is modified by the term "new," then "new PSS" means a PSS that does not exist at the time the application is submitted, including, but not limited to, a PSS that will replace an existing pole. The fact that a structure is a PSS does not alone authorize an applicant to collocate on, modify, or replace the PSS until an application is approved and all requirements are satisfied pursuant to this subsection.

(xxi) "Rate." A recurring charge.

(xxii) "Residential neighborhood." An area within the city's geographic boundary that is zoned or otherwise designated by the city for general purposes as an area primarily used for single-family residences and does not include multiple commercial properties and is subject to speed limits and traffic controls consistent with residential areas.

(xxiii) "Right-of-way" or "ROW." The space in, upon, above, along, across, and over all public streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under control by the city and any unrestricted public utility easement established, dedicated, platted, improved, or devoted for utility purposes and accepted as such public utility easement by the authority, but excluding lands other than streets that are owned by the city.

(xxiv) "Right-of-way permit or permit." A permit for the construction or installation of wireless facilities, small wireless facilities, wireless backhaul facilities, fiber optic cable, conduit, and associated equipment necessary to install wireless facilities in the right-of-way.

(xxv) "Small wireless facility." A wireless facility with:

(A) An antenna that could fit within an enclosure of no more than six (6) cubic feet in volume;

(B) Other wireless equipment in addition to the antenna that is cumulatively no more than twenty-eight (28) cubic feet in volume, regardless of whether the facility is ground-mounted or pole-mounted. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment element, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, or a vertical cable run for the connection of power and other services; and

(C) "Small wireless facility" includes a micro wireless facility.

(xxvi) "Wireline backhaul facility." A communications facility used to transport communications services by wire from a wireless facility to a network.

(xxvii) "Wireless facility." Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

(A) Equipment associated with wireless communications; and

(B) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless facility" does not include:

(C) The structure or improvements on, under, or within which the equipment is collocated;

(D) Wireline backhaul facilities; or

(E) Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to, or directly associated with, a particular antenna.

"Wireless facility" includes small wireless facilities.

(xxviii) "Wireless infrastructure provider." Any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities or PSSs, but that is not a wireless services provider.

(xxix) "Wireless provider." A wireless infrastructure provider or a wireless services provider.

(xxx) "Wireless services." Any service using licensed or unlicensed spectrum, including the use of wifi, whether at a fixed location or mobile, provided to the public.

(xxxi) "Wireless services provider." A person who provides wireless services.

(c) Permitted use; application and fees.

(i) Permitted use. Collocation of a small wireless facility or installation of a new, replacement, or modified city-owned PSS or PSS for a privately-owned small wireless facility shall be a permitted use, subject to the restrictions in this title. Collocation on PSS owned by the City of Maryville Electric Department is preferred as most poles in the right-of-way are owned by the utility.

(ii) Permit required. No person may construct, install, and/or operate wireless facilities that occupy the right-of-way without first obtaining a right-of-way use permit from the city. Any right-of-way use permit shall be reviewed, issued and administered in a non-discriminatory manner, shall be subject to such reasonable conditions as the city may from time to time establish for effective management of the right-of-way, and otherwise shall conform to the requirements of this subsection and applicable law.

(iii) Pre-application filing meeting. Prior to filing an application, a pre-application meeting is encouraged.

(iv) Permit applications. All applications for right-of-way permits filed pursuant to this subsecction shall be on a form, paper or electronic, provided by the city. The applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly. A pole attachment agreement will also be required when collocating on PSS owned by the City of Maryville Electric Department. Applications are limited to twenty (20) structures per application.

(v) Application requirements. The application shall be made by the wireless provider or its duly authorized representative and shall contain the following information.

(A) The applicant's name, address, telephone number, and e-mail address.

(B) The names, addresses, telephone numbers, and e-mail addresses of all consultants, contractors and subcontractors, if any, acting on behalf of the applicant with respect to the filing of the application or who may be involved in doing any work on behalf of the applicant.

(C) A site plan for each proposed location shall be submitted in accordance with the City of Maryville Zoning and Land Use Ordinance, § 14-212. Site plans shall be signed and sealed by a professional engineer registered in Tennessee depicting the design for installation of the small wireless facility with sufficient detail for the city to determine that the design of the installation and any new PSS or any modification of a PSS is consistent with all generally applicable safety and design requirements, including the requirements of the *Manual on Uniform Traffic Control Devices*.

(D) The location of the site(s), including the latitudinal and longitudinal coordinates of the specific location(s) of the site.

(E) Identification of any third party upon whose PSS the applicant intends to collocate and certification by the applicant that it has obtained approval from the third party.

(F) The applicant's identifying information and the identifying information of the owner of the small wireless facility and certification by the applicant or the owner that such person agrees to pay applicable fees and rates, repair damage, and comply with all nondiscriminatory and generally applicable right-of-way requirements for deployment of any associated infrastructure that is not a small wireless facility and the contact information for the party that will respond in the event of an emergency related to the small wireless facility.

(G) The applicant's certification of compliance with surety bond, insurance, or indemnification requirements (as set forth in subsection (i) below); rules requiring maintenance of infrastructure deployed in right-of-way; rules requiring relocation or timely removal of infrastructure in right-of-way no longer utilized; and any rules requiring relocation or repair procedures for infrastructure in right-of-way under emergency conditions, if any, that the city imposes on a general and non-discriminatory basis upon entities that are entitled to deploy infrastructure in the right-of-way no longer utilized; and any rules requiring relocation or repair procedures for infrastructure in the right-of-way under emergency conditions, if any, that the city imposes on a general and non-discriminatory basis upon entities that are entitled to deploy infrastructure in the right-of-way.

(H) The applicant's certification that the proposed site plan and design plans meet or exceed all applicable engineering, materials, electrical, and safety standards, including all standards related to the structural integrity and weight-bearing capacity of the PSS and small wireless facility. Those standards relevant to engineering must be certified by a licensed professional engineer.

(i) A statement that all wireless facilities shall comply with all applicable codes.

(vi) Approval or denial of application; response time. The city shall respond to the applications for permit per the timelines prescribed in *Tennessee Code Annotated*, § 13-24-409(b), regarding the approval or denial of applications, and the city shall respond to applications per the specific requirements of *Tennessee Code Annotated*, § 13-24-409(b)(3). The city reserves the right to require a surcharge as indicated in *Tennessee Code Annotated*, § l3-24-409(b)(7)(F)(i) for high-volume applicants.

(vii) Appeals. An applicant claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the city in the administration of this subsection may appeal the action to the board of zoning appeals. Such appeal must be taken within thirty (30) consecutive calendar days of the final action, in accordance with the procedures established for appeals to the board of zoning appeals.

(viii) Deployment after permit. An applicant must complete deployment of the applicant's small wireless facilities within nine (9) months of approval of applications for the small wireless facilities unless the city and the applicant agree to extend the period, or a delay is caused by a lack of commercial power or communications transport facilities to the site. If an applicant fails to complete deployment within the time required pursuant to this subsection (c), then the city may require that the applicant complete a new application and pay an application fee.

(ix) Multiple permit applications at same location. If the city receives multiple applications seeking to deploy or collocate small wireless facilities at the same location in an incompatible manner, then the city may deny the later filed application. For purposes of this subsection, "same location" shall be defined as collocating on the same authority-owned PSS, or deploying small cell facilities on new or modified PSSs within fifty feet (50') of each other.

(x) Bridge and/or overpass special provision. If the applicant's site plan includes any collocation design that includes

attachment of any facility or structure to a bridge or overpass then after the applicant's construction is complete, a licensed professional engineer's certification that the construction is consistent with the applicant's approved design, that the bridge or overpass maintains the same structural integrity as before the construction and installation process, and that during the construction and installation process neither the applicant nor its contractors have discovered evidence of damage to, or deterioration of, the bridge or overpass that compromises its structural integrity. If such evidence is discovered during construction, then the applicant shall provide notice of the evidence to the city.

(xi) Information updates. Except as otherwise provided herein, any amendment to information contained in a permit application shall be submitted in writing to the city within thirty (30) days after the change necessitating the amendment.

(xii) Application fees. Unless otherwise provided by law, all permit applications for small wireless facility pursuant to this subsection shall be accompanied by the maximum fee in accordance with *Tennessee Code Annotated*, § 13-24-407. This includes a ten percent (10%) increase effective January 1, 2020 and every five (5) years after.

(d) Facilities in the right-of-way; maximum height; other requirements.

(i) Aesthetic plan. Unless otherwise determined by city staff, in an attempt to blend into the built environment, all small wireless facilities, new or modified utility poles, PSSs for the collocation of small wireless facilities, and associated equipment shall be consistent in size, mass, and color to similar facilities and equipment in the immediate area, and its design for the PSS shall meet any applicable aesthetic plan for the area, subject to following requirements:

(A) Collocation is recommended, when possible. Should the wireless provider not be able to collocate, the wireless provider shall provide justification in the application.

(B) When unable to match the design and color of existing utility poles in the immediate area small wireless facilities and/or new PSSs shall be designed using stealth or camouflaging techniques, to make the installation as minimally intrusive as possible including stealth poles that are black or dark green in color, powder-coated and that do not exceed sixteen inches (16") in diameter. The city reserves the right to require a street light on the utility pole. New wooden PSSs shall be strictly prohibited.

(C) When an applicant seeks to deploy a small wireless facility and associated equipment within a residential neighborhood, then the applicant must deploy the facility in the right-of-way within twenty-five feet (25') of the property boundary of lots larger than three-fourths (3/4) acres and within fifteen feet (15') of the boundary if lots are three-fourths (3/4) acres or smaller.

(D) New small wireless facilities, antennas, and associated equipment shall be consistent in size, mass, and color to similar facilities and equipment in the immediate area of the proposed facilities and equipment, minimizing the physical and visual impact to the community.

(ii) Compliance with underground facilities. An applicant must comply with existing requirements to place all electric, cable, and communications facilities underground in a designated area of a right-of-way, as determined by the city's zoning regulations, and its design for the PSS meets the aesthetic plan for the area.

(iii) Historic districts. For applications for property located inside the Oak Park or College Hill Historic Districts, the applicant must also obtain approval from the historic zoning commission prior to obtaining a permit. Proposed installations are subject to the historic zoning commission design guidelines.

(iv) Prohibited PSS colocation. Unless otherwise determined by city staff, an applicant shall not collocate on the following city-owned PSSs:

(A) Traffic signal equipment, including signal heads, poles, span wires, and mast arms.

(B) Regulatory signs.

(C) Breakaway supports.

(D) PSSs which have mast arms routinely removed to accommodate frequent events.

(v) Replacing an existing city-owned PSS. City-owned PSS may be replaced for the collocation of small wireless facilities. When replacing a PSS, any replacement PSS must reasonably conform to the design aesthetics of the PSS being replaced, and must continue to be capable of performing the same function in a comparable manner as it performed prior to replacement.

(A) When replacing a city-owned PSS, the replacement PSS becomes the property of the city, subject to *Tennessee Code Annotated*, § 13-24-408(g).

(B) The city reserves the right to require a street light on the new PSS.

(vi) Maximum height. A new PSS installed or an existing PSS replaced in the right-of-way shall not exceed the greater of:

(A) Ten feet (10') in height above the tallest existing PSS in place as of the effective date of this subsection that is located within five hundred feet (500') of the new PSS in the ROW and, in residential neighborhoods, the tallest existing PSS that is located within five hundred feet (500') of the new PSS and is also located within the same residential neighborhood as the new PSS in the right-of-way;

(B) Fifty feet (50') above ground level; or

(C) Forty feet (40') above ground level for a PSS installed in a residential neighborhood.

(vii) Maximum height for small wireless facilities. Small wireless facilities shall not extend:

(A) More than ten feet (10') above an existing PSS in place as of the effective date of this subsection; or

(B) On a new PSS, ten feet (10') above the height permitted for a new PSS under this section.

(viii) Construction in the rights-of-way. All construction, installation, maintenance, and operation of wireless facilities in the right-of-way by any wireless provider shall conform to the requirements of the following publications, as from time to time amended: *The Rules of Tennessee Department of Transportation Right-of-Way Division*, the *National Electrical Code*, and the *National Electrical Safety Code*, as might apply.

(e) Effect of permit.

(i) Authority granted; no property right or other interest created. A permit authorizes an applicant to undertake only certain activities in accordance with this subsection, and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the rights-of-way.

(ii) Duration. No permit issued under this subsection shall be valid for a period longer than twelve (12) months unless construction has commenced within that period and is thereafter diligently pursued to completion. In the event that construction begins but is inactive for more than ninety (90) days, the permit expires.

(iii) Termination of permit. In all other circumstances, the permit expires in twelve (12) months.

(f) Maintenance, removal, relocation or modification of small wireless facility and fiber in the right-of-way.

(i) Notice. Within ninety (90) days following written notice from the city, the permitted shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities

within the rights-of-way whenever the city has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any city improvement in or upon, or the operations of the city in or upon, the rights-of-way. The city agrees to use good faith efforts to accommodate any such disconnection, removal, relocation, change, or alteration and to assist with identifying and securing a mutually agreed upon alternative location.

(ii) Maintenance of existing facilities. With respect to each wireless facility installed pursuant to a right-of-way permit, permitted is hereby permitted to enter the right-of-way at any time to conduct repairs, maintenance or replacement not substantially changing the physical dimension of the wireless facility. Permitted shall comply with all rules, standards and restrictions applied by the city to all work within the right-of-way. If required by city, permitted shall submit a "maintenance of traffic" plan for any work resulting in significant blockage of the right-of-way. However, no excavation or work of any kind may be performed without a permit, except in the event of an emergency. In the event of emergency, permitted must contact the director of engineering and public works, or his or her designee.

(iii) Removal of existing facilities. If the permitted removes any wireless facilities, it shall notify the city of such change within sixty (60) days.

(iv) Damage to facilities or property. A permitted, including any contractor or subcontractor working for a permitted, shall avoid damage to any wireless facilities and/or public or private property. If any wireless facilities and/or public or private property are damaged by permitted, including any contractor or subcontractor working for permitted, the permitted shall promptly commence such repair and restore such property within ten (10) business days. Permitted shall utilize the Tennessee One Call System prior to any disturbance of the rights-of-way and shall adhere to all other requirements of the Tennessee Underground Utility Damage Prevention Act.

(v) Emergency removal or relocation of facilities. The city retains the right and privilege to cut or move any small wireless facility located within the rights-of-way of the city, as the city may determine to be necessary, appropriate or useful in response to any serious public health or safety emergency. If circumstances permit, the city shall notify the wireless provider in writing and provide the wireless provider a reasonable opportunity to move its own wireless facilities prior to cutting or removing a wireless facility and shall notify the wireless provider after cutting or removing a wireless facility. Any removal shall be at the wireless provider's

sole cost. Should the wireless facility be collocated on property owned by a third party, the city shall rely on the third party to remove the wireless facility and shall be provided adequate notice and time to facilitate such removal.

(vi) Abandonment of facilities. Upon abandonment of a small wireless facility within the rights-of-way of the city, the wireless provider shall notify the city within ninety (90) days. Following receipt of such notice the city may direct the wireless provider to remove all or any portion of the small wireless facility if the city reasonably determines that such removal will be in the best interest of the public health, safety and welfare. Should the wireless facility be collocated on property owned by a third party, the city shall rely on the third party to remove the wireless facility and shall be provided adequate notice and time to facilitate such removal. Any removal shall be at the wireless provider's sole cost.

(vii) Failure to remove wireless facilities pursuant to this subsection will result in no future permits being granted.

(g) Public right-of-way rates; attachment to city-owned/leased utility poles and new utility poles installed within the public right-of-way or city-owned/leased property.

(i) Annual rate. The rate to place a small wireless facility on a city-owned or leased pole in the right-of-way shall be the maximum fee in accordance with the amount stated in *Tennessee Code Annotated*, § 13-24-407, per year for all city-owned or leased poles in the rights-of-way. If attaching to a City of Maryville Electric Department pole, the current pole attachment rates and fees will apply. All equipment attached to a city-owned pole shall constitute a single attachment and therefore a single use of a city-owned pole. Such compensation, for the first year or for any portion thereof, together with the application fee, shall be the sole compensation that the wireless provider shall be required to pay the city.

(ii) A wireless provider authorized to place a new utility pole within public right-of-way or on city-owned or leased property shall pay the city for use of the right-of-way or property in the amount stated in *Tennessee Code Annotated*, § 13-24-407.

(iii) Make-ready. For city-owned or leased utility poles in the rights-of-way, the city shall provide a good faith reasonable direct cost-based estimate for any make-ready work necessary to enable the pole to support the requested small wireless facility, including pole replacement if necessary, within sixty (60) days after receipt of a completed request. Make-ready work including any pole replacement shall be completed within sixty (60) days of written acceptance of the good faith estimate by the wireless provider.

(h) Remedies; violations. In the event a reasonable determination is made that a person has violated any provision of this subsection, or a right-of-way permit, such person shall be provided written notice of the determination and the specific, detailed reasons therefor. Except in the case of an emergency, the person shall have thirty (30) days to commence to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the city, in its reasonable judgment, may extend the time period to cure; provided, that the person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the city may take all actions authorized by this subsection and/or Tennessee law and regulations.

(i) General provisions.

(i) Insurance. Each permitted shall, at all times during the entire term of the right-of-way use permit, maintain and require each contractor and subcontractor to maintain insurance with a reputable insurance company authorized to do business in the State of Tennessee and which has an A.M. Best rating (or equivalent) no less than "A" indemnifying the city from, and against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, operation, maintenance or removal of permitted's wireless facilities in the rights-of-way. The amounts of such coverage shall be not less than the following:

(A) Worker's compensation and employer's liability insurance. Tennessee statutory requirements.

(B) Comprehensive general liability. Commercial general liability occurrence form, including premises/operations, independent contractor's contractual liability, product/completed operations; X, C, U coverage; and personal injury coverage for limits no less than one million dollars ($1,000,000.00) per occurrence, combined single limit and two million dollars ($2,000,000.00) on the aggregate.

(C) Commercial automobile liability. Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this article XII for limits no less than one million dollars ($1,000,000.00) per occurrence combined single limit each accident.

(D) Commercial excess or umbrella liability. Commercial excess or umbrella liability coverage may be used in combination with primary coverage to achieve the required limits of liability. The city shall be designated as an additional insured under each of the insurance policies required by this subsection except worker's compensation

and employer's liability insurance. Permitted shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this subsection. Permitted shall provide the city with at least thirty (30) days' advance written notice of any material changes or cancellation of any required insurance policy, except for non-payment of premium of the policy coverages. Permitted shall impose similar insurance requirements as identified in this subsection on its contractors and subcontractors.

(ii) Indemnification. Each permitted, its consultant, contractor, and subcontractor, shall, at its sole cost and expense, indemnify, defend and hold harmless the city, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the permitted, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of permitted's wireless system or wireless facilities in the rights-of-way. Each permitted shall defend any actions or proceedings against the city in which it is claimed that personal injury, including death or property damage was caused by the permitted's construction, installation, operation, maintenance or removal of permitted's wireless system or wireless facilities in the rights-of-way. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other reasonable costs of indemnification.

(iii) Application for renewal of permit. A permitted desiring to renew a right-of-way permit prior to the expiration of the permit shall file an application with the city for renewal of its authorization, which shall include the information and documents required for an initial application and other material information reasonably required by the director of engineering and public works, or his or her designee.

(A) The city shall make a determination accepting or denying the renewal application in writing to the permitted.

(B) The city shall timely process any renewal application provided that:

(1) Permitted is not then in material default under any provision of the right-of-way permit, or in material non-compliance with this chapter; and

(2) Has otherwise satisfactorily performed all of its obligations under the right-of-way permit, and this chapter during the expiring term. In the event the city elects not to renew, it shall provide a written basis for such non-renewal. Determinations to grant or deny a renewal application shall be made on a non-discriminatory and competitively neutral basis. The city shall not unreasonably delay, condition, withhold or deny the issuance of a renewal permit.

(iv) As-built maps. As the city controls and maintains the right-of-way for the benefit of its citizens, it is the responsibility of the city to ensure that such public right-of-way meet the highest possible public safety standards. Upon request by the city and within (30) days of such a request, a permitted shall submit as-built maps and engineering specifications depicting and certifying the location of all its existing small wireless facilities within the right-of-way, provided in standard electronic or paper format in a manner established by the director of engineering and public works, or his or her designee. After submittal of the as-built maps as required under this subsection, each permitted having small wireless facilities in the city right-of-way shall update such maps as required under this subsection upon written request by the city.

(v) Right to inspect. With just and reasonable cause, the city shall have the right to inspect all of the small wireless facilities, including aerial facilities and underground facilities, to ensure general health and safety with respect to such facilities and to determine compliance with the terms of this subsection and other applicable laws and regulations. Any permitted shall be required to cooperate with all such inspections and to provide reasonable and relevant information requested by the city as part of the inspection.

(j) Transitional provisions.

(i) Persons already authorized to use the right-of-way. Any wireless provider and/or entity holding a permit or other authorization from the city to own, construct, install, operate, and/or maintain wireless facilities in the right-of-way to provide services may continue to conduct those activities expressly authorized until the earlier of the following:

(A) The conclusion of the present term of its existing authorization; or

(B) One hundred eighty (l80) days after the effective date of this subsection.

Notwithstanding the foregoing, any such person shall apply for a superseding right-of-way permit pursuant to this subsection within ninety (90) days after the effective date of the subsection and shall be subject to the terms and conditions of this subsection. Upon such application, such person shall be allowed to continue to own, operate and/or maintain its wireless facilities in the right-of-way until such right-of-way permit becomes effective.

(ii) Operating without right-of-way use authorization. Any person that owns or operates any wireless facilities currently located in the right-of-way, the construction, operation, or maintenance of which is not currently authorized but is required to be authorized under this subsection, shall have ten (10) days from the effective date of this subsection to apply for a right-of-way permit. Any person timely filing such an application shall not be subject to penalties for failure to hold a right-of-way permit, provided that said application remains pending. Nothing herein shall relieve any person of any liability for its failure to obtain a right-of-way use permit, or other authorization required under other provisions of this subsection or city ordinances or regulations, and nothing herein shall prevent the city from requiring removal of any wireless facilities installed in violation of this subsection or city ordinances or regulations.

(iii) Duty to provide information. Within ten (10) days of a written request from the city, a permitted shall furnish the city with information sufficient to demonstrate the following: that the permitted has complied with all requirements of this subsection; that all fees due to the city in connection with the services provided and wireless facilities installed by the permitted have been properly paid by the permitted; and any other information reasonably required relating to the permitted's obligations pursuant to this subsection.

(iv) No substitute for other required permissions. No right-of-way permit includes, means, or is in whole or part a substitute for any other permit or authorization required by the laws and regulations of the city for the privilege of transacting and carrying on a business within the city or any permit or agreement for occupying any other property of the city.

(v) No waiver. The failure of the city to insist on timely performance or compliance by any permitted holding a right-of-way permit shall not constitute a waiver of the city's right to later insist on timely performance or compliance by that permitted or any other permitted holding such right-of-way permit. The failure of the city to enforce any provision of this subsection on any occasion shall not operate as a waiver or estoppel of its right to enforce any provision of this subsection on any other occasion,

nor shall the failure to enforce any prior ordinance or city charter provision affecting the right-of-way, any wireless facilities, or any user or occupant of the right-of-way act as a waiver or estoppel against enforcement of this subsection or any other provision of applicable law.

(vi) Policies and procedures. The city is authorized to establish such written policies and procedures consistent with this subsection as the city reasonably deems necessary for the implementation of this subsection.

(vii) Police powers. The city, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the city under applicable federal, state and local laws and regulations.

(viii) Severability. If any section, subsection, sentence, clause, phrase or word of this subsection is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this subsection invalid.

(27) Temporary uses. The purpose of this section is to allow certain qualifying uses to be established on a temporary basis within the City of Maryville. The following provisions are provided in the recognition of the need for special allowances to be granted for temporary uses and conditions therein. These provisions, authorizing and regulating uses which are truly temporary in nature, are intended to permit such uses when consistent with city regulations and policies, and when safe and compatible with the area in which they are located.

(a) Permit required. A temporary use permit shall be obtained from the development services department prior to the initiation of the use. The applicant must provide necessary business license or transient vendor license from the city recorder's office as determined by the nature of the temporary use.

(b) Fee. Each temporary use permit shall be accompanied by a fee of twenty-five dollars ($25.00). However, no fee shall be required when the temporary use is for a public entity or single-family residential property.

(c) Submittal requirements. In submitting an application for a temporary use permit, the applicant shall provide the following:

(i) A site plan/sketch depicting all structures and specific use areas to be utilized by the temporary use.

(ii) A written description of the use to include the hours/dates of operation, number of employees, and anticipated deliveries/traffic.

(iii) Sufficient information to determine yard requirements, setbacks, sanitary facilities and parking spaces for

the temporary use. Temporary tents, canopies, pavilions, portable restrooms or other such covered shelters are considered structures.

(iv) Written permission from the owner or lessee of the property.

(v) Any other information as deemed necessary to evaluate the impact of the temporary use.

(d) General provisions:

(i) No temporary use may impede access to ADA accessible parking spaces, pathways, pedestrian walkways, infringe on public right-of-way, negatively impact traffic flow for a property, or otherwise violate any health and safety provisions of the Maryville Municipal Code.

(ii) No permanent structures may be erected in conjunction with a temporary use. Tents and other similar temporary structures are allowed so long as they comply with the provisions of this section.

(iii) All temporary uses must have written permission from the owner or lessee of the property.

(iv) Temporary uses may encroach into required setbacks but cannot be located within required landscaped buffers or other required landscaped areas.

(v) All commercial vendors must obtain the necessary business license appropriate to their intended use as well as any other licenses, permits or inspections which may be required by local, state or federal law.

(vi) The operation and location of a temporary use shall not violate any development requirements or conditions for a permanent use on the property. Temporary uses may operate on a lot without another principal use.

(vii) All materials, structures, and products related to the temporary use must be removed from the property between days of operation on the site, provided that structures and products related to the temporary use may be left on-site overnight between consecutive days of operation. Each site occupied by a temporary use shall be left free of debris, litter, or other evidence of the temporary use upon expiration of the permit.

(viii) Depending on the nature of the use, other review and requirements from city departments may be required.

(ix) This section does not apply to other temporary uses as otherwise authorized and regulated in titled 7 and 9 of the Maryville Municipal Code. Nor does this section apply to any property owned by the City of Maryville.

(e) Temporary uses allowed:

(i) Seasonal sales such as Christmas trees, pumpkin patches, flower sales and other similar uses:

(A) May be permitted for a single, non-residential properties for up to forty-five (45) days per calendar year in the Downtown, Central Community, Neighborhood and Business and Transportation zoning districts.

(ii) Outdoor sales and services -transient vendors

(A) Permitted in the Business and Transportation and Neighborhood zones.

(B) Permits for a single vendor may be issued for a period not to exceed fifteen (15) consecutive days.

(C) The total time allowed for any single property is not to exceed forty-five (45) days during a calendar year.

(iii) Outdoor sales and services when conducted by the principal use

(A) For commercial uses in zoning districts which do not otherwise allow display and storage of goods outside a fully enclosed structure, temporary outdoor sales and services may be permitted for a period not to exceed forty-five (45) days during a calendar year.

(B) These provisions shall not apply to properties zoned for storage and display of goods outside a fully enclosed building when such sales are conducted by the principal occupant of the property.

(iv) Real estate sales and/or model home offices

(A) A real estate sales and/or model home office is allowed within a new residential development within a permitted single-family home limited to one office per development.

(B) The temporary use permit is valid for the life of the project as determined by open building permits.

(C) All activities conducted within the real estate sales office/model unit must be directly related to the construction and sale of properties within the particular development. Use as a general office of operation for any firm is prohibited.

(v) Off-site temporary parking and construction staging areas for public projects for the duration of the project.

(A) Permitted in any zoning district for the necessary duration of the project.

(vi) Temporary residences and offices for construction and security personnel.

(A) Temporary residences used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project.

(B) Permits for temporary residences to be occupied pending the construction, repair, or renovation of

the permanent residential building on a site shall expire within six (6) months after the date of issuance, except that the administrator may renew such permit for one additional period not to exceed three (3) months if they determine that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

(vii) Outdoor recreational and entertainment events:

(A) For non-residential properties, outdoor recreational and entertainment events may be permitted in the Business and Transportation, Central Community, and Neighborhood zones limited to two (2) such events on a given property during a calendar year.

(viii) Portable storage containers:

(A) Commercial properties: When viewed from a public street, portable storage containers may be permitted on any commercially zoned property or commercial use for a period not to exceed ninety (90) days in a calendar year provided they comply with setback and lot coverage requirements. This section shall not apply to storage containers actively involved in the delivery and shipment of goods associated with the commercial use nor those which are not readily visible from public streets.

(B) Residential properties: Portable storage containers and commercial dumpsters may be permitted on residentially zoned properties for a period not to exceed ninety (90) days in a calendar year provided they meet setback and lot coverage requirements.

(C) For any property, one extension may be granted when the container is being used as temporary storage due to work requiring a building or demolition permit for structures or buildings on the property. In such cases, the use of the portable storage container cannot exceed the period for which the building or demolition permit has been issued.

(D) No portable storage container is to be used for human occupancy or be located as such to negatively impact parking or traffic circulation on the property.

(E) This section shall not apply to industrial properties.

(ix) Temporary parking:

(A) When as the result of construction activities on-site, or the displacement of a property's parking due to temporary construction easements as the result of a public

project, parking which does not meet the standards of § 14-219 of the Zoning and Land Use Ordinance may be approved on a temporary basis.

(B) Temporary parking may consist of gravel or similar type surface to prevent unnecessary erosion.

(C) Temporary parking approved under this provision shall not be constructed of a permanent surface such as asphalt or concrete.

(D) The temporary use permit shall be valid for the duration of the project which created the need for temporary parking. Upon expiration of the permit, the temporary parking area shall be restored to its original state.

(f) Additional temporary uses. In addition to the temporary uses listed above, a temporary use permit may be issued for other temporary uses that are substantially similar to a temporary use listed above and not intended to be permanent. A permit may be issued if the administrator determines that such use is not incompatible with the surrounding land uses and proper care has been taken to protect surrounding development, traffic patterns, and the environment. The timeframe of such temporary uses will be determined and approved by the temporary use permit but in no case shall exceed ninety (90) days.

(g) Temporary signage. Properties with approved commercial temporary uses are allowed one (1) temporary sign not to exceed thirty-two (32) square feet for the duration of the temporary use permit.

(h) Prohibitions. The following are prohibited for all temporary uses:

(i) With the exception of a model home for a residential development, no permanent improvements to a property specifically for a temporary use are permitted.

(ii) Sales and services provided from any type of motor-vehicle not otherwise specifically permitted by the Maryville Municipal code are prohibited.

(iii) No temporary use may generate substantial noise, light, odors or fumes so as to be a nuisance to neighboring properties.

(iv) No temporary use may operate on public right-of-way.

(28) Storefront churches. (a) Places of worship proposed to locate within existing commercial structures, multi-tenant commercial structures, and locations previously approved by the board of zoning appeals shall be permitted uses and exempt from formal review by the said board. However, such uses proposed within the city shall be subject to all applicable rules, regulations, and policies enforced by various city departments.

(b) Exemptions from the board of zoning appeals review and approval process for places of worship shall be subject to the provisions

outlined in *Tennessee Code Annotated*, § 13-7-208. If a location for a place of worship has been vacant or ceased operation for more than thirty (30) continuous months then a new application to the city's board of zoning appeals shall be submitted for a formal special exception review as outlined within the city's zoning ordinance and *Tennessee Code Annotated*, § 13-7-208(g).

(c) New construction for churches, synagogues, and places of worship that are proposed to be located within the city as freestanding structures shall continue to be subject to the city's special exception process outlined within the zoning and land use ordinance. This subsection is not intended to create any undue burden on a religious institution desiring to locate within the city, but rather to protect the community from any significant adverse impacts that may occur at a specific location.

(d) The regulations outlined within this subsection shall also apply to other zoning districts not listed within the table of land uses and shall include the following: Central Business District; Washington Street Commercial Corridor; Office Transition; Heritage Development Zone; Central Business Support Zone; High Intensity Commercial; Industrial; High Density Residential; Institutional; and High Intensity Retail District.

(29) Mobile food parks. (a) Mobile food parks are permitted on private lots as a special exception use in the Business and Transportation, Neighborhood, High Intensity Retail, High Intensity Commercial, Central Community and Downtown zoning districts subject to the city's standard development standards and those enumerated herein. In reviewing the special exception request, the board of zoning appeals may place additional requirements on a mobile food park in order to mitigate the impacts of the proposed development. A mobile food park may be allowed on lots where another principal use is located so long as adequate space is available for both uses to fully meet the city's land development requirements.

(b) Development standards:

(i) The city's standard commercial development standards or downtown design standards will apply to the property including but not limited to lighting, landscaping, parking, and building design.

(ii) No mobile food park may locate adjacent to any property used for residential purposes unless a thirty foot (30') non disturbance area is established along the common property line. The thirty foot (30') buffer can contain the required landscaped buffer, but shall otherwise be free from structures, lighting, parking and other permanent improvements.

(iii) All mobile food vendors must leave the mobile food park upon closing of the park each day.

(iv) A designated manager of the property is required to be on-site during operation and responsible for the orderly organization of food truck vendors, the cleanliness of the site, and compliance with all rules and regulations during business hours. Such information must be clearly posted on the lot and provided to city staff.

(v) The lot must be kept clear of litter and debris at all times. Proper waste receptacles and recycling bins must be provided. When dumpsters are provided, the screening requirements of the Zoning and Land Use Ordinance apply.

(vi) Signage will be governed by the zoning district in which the property is located.

(vii) The property must be developed in a way that allows for proper vehicle flow and emergency services access.

(viii) Each mobile food park must provide a unified common area amounting to a minimum of five hundred (500) square feet per vending space. The common area may contain tables, chairs and recreational activities. At a minimum, common areas shall be a unified open space for the congregation of the users of the park.

(ix) Parking spaces and vehicle movement areas are required to be a surface per the requirements of the Zoning and Land Use Ordinance. Vendor spaces may be gravel so long as such surface is maintained as to prevent potholes, erosion and dust. One (1) parking space is required for each vendor space.

(c) Mobile food vendor spaces are not required to meet front setbacks for a property but must meet side and rear setbacks. Any permanent structures are required to meet the setback requirements of the zoning district.

(d) When located in conjunction with another principal use, both uses shall be required to meet the development requirements including parking and setbacks. No mobile food park can reduce a property's parking below the minimum required by the Zoning and Land Use Ordinance.

(e) An applicant for a mobile food park shall submit a concept plan, drawn to scale, to the board of zoning appeals detailing the following. In considering the request, the board shall verify that the requirements for a mobile food park have been met.

(i) Location of proposed vendor spaces and common areas.

(ii) Parking areas and vehicle movement areas.

(iii) Sanitary facilities including restrooms, hand washing stations and refuse disposal.

(iv) All proposed permanent improvements to the property including buildings, lighting and dumpster screenings.

(v) Landscaping and the amount of impervious surface area proposed.

(vi) Operations plan to include proposed utility service, hours of operation, and other potential activities to take place in conjunction with the mobile food park.

(f) In evaluating a request for a mobile food park, the board upon recommendation by staff, may determine additional development standards are required to mitigate off-site impacts of the proposed use. Additional requirements may include additional landscaping and screening, additional parking, limitations on lighting, restrictions on hours of operation or a limitation on the number of vendor spaces. In determining additional requirements, the board shall make a finding of fact detailing a direct correlation of the additional requirement to the impact of the use.

(g) All mobile food vendors must have an active mobile food vendor perm it per § 9-201 of the Maryville Municipal Code.

(h) Depending on the scope of needed improvements to a property, a site plan or other requirements of the Maryville Municipal Code, utility policies or Public Works Standards may be required. This section does not abrogate any other requirements that apply to property development within the city. When there is a conflict between the specific requirements for a mobile food park and other requirements of the city code, these requirements shall apply.

(30) Short-term rental units. (a) Allowed uses. Short-term rental units are allowed if they meet the following criteria:

(i) Locations. Short-term rental units are allowed in the following zoning districts: Business and Transportation District, Central Community District, Office District, Neighborhood District, Central Business District, Washington Street Commercial Corridor, Office Transition Zone, Heritage Development Zone, Central Business District Support Zone, High Intensity Commercial District, High Density Residential, Industrial, Institutional, and High Intensity Retail District. Short-term rental units are prohibited in the following zoning districts: Residential District, Environmental Conservation District, Single-Family District, College Hill Historic District, Oak Park Historic District, and Estate Zone.

Structures. Only structures previously approved for residential occupancy are eligible to become a short-term rental unit. For purposes of this subsection, "residential dwelling" means a cabin, house, or structure used or designed to be used as an abode or home of a person, family, or household, and includes a single-family dwelling, a portion of a single-family dwelling, or an individual residential dwelling in a multi-dwelling building, such

as an apartment building, condominium, cooperative, or timeshare as defined in *Tennessee Code Annotated*, § 13-7-602.

(ii) Zoning. All properties must adhere to the requirements of the zone in which it is located.

(b) Permitting. All persons eligible to operate short-term rental units within the city must be issued a permit pursuant to the requirements of this subsection and obtain a business license in the City of Maryville. The city reserves the right to inspect the premises as necessary if an application for a permit has been submitted.

(i) Previously operating short-term rental units. Only those property owners who were using their property lawfully as a short-term rental, as that term is defined in *Tennessee Code Annotated*, § 13-7-602(3)(6), and who remitted taxes due on renting their property pursuant to *Tennessee Code Annotated*, title 67, chapter 6, part 5, for filing periods that cover at least six (6) months within the twelve (12) month period immediately preceding that date are eligible to use their property for short-term rentals for thirty (30) days after the passage of this subsection prior to receiving an operating permit.

(ii) Operating permit required. With the exception of subsection (b)(i) above, it shall be unlawful to operate or advertise any short-term rental unit without a short-term rental unit operating permit issued under this subsection.

(c) Application requirements. Every qualifying property owner that wants to operate a short-term rental unit shall submit an application for short-term rental operation to the development services department. In addition to the information required by the application itself, city staff may request other information reasonably required to allow the city to process the application. The permit application shall not be considered complete until the city has all information as required by the application or otherwise. Each application shall contain at the least all of the following information.

(i) Applicant must acknowledge that they have read all regulations pertaining to the operation of a short-term rental unit within the City of Maryville, including the city's business license requirements, the city's occupancy privilege tax requirements, any additional administrative regulations promulgated or imposed by the city to implement this subsection, and acknowledging responsibility for compliance with the provisions of this subsection.

(ii) Applicant must submit an affidavit of life safety compliance acknowledging that during each short-term rental unit occupancy, the rental unit shall have on the premises, and installed to manufacturer specifications:

(A) A smoke alarm meeting Underwriters Laboratory (UL) 217 standards inside each sleeping room,

outside of, and within, fifteen feet (15') of sleeping rooms, and on each story of the dwelling unit, including basements;

(B) A carbon monoxide detector within fifteen feet (15') of all bedrooms; and

(C) A fire extinguisher. Every smoke and carbon monoxide alarm must function properly with the alarm sounding after pushing the test button and the fire extinguisher must be operational. It shall be unlawful to operate a short-term rental unit without a smoke alarm, carbon monoxide detector, and fire extinguisher as required by this subsection. The affidavit must also specifically include the number, locations, and operation of the required life safety equipment for the short-term rental unit. This equipment will be subject to verification or inspection before the initial permit is issued, at all other reasonable times upon reasonable notice, and such other times as any safety incident concerning the rental unit is reported to the city.

(iii) The owner of the property must make the application for operation for a short-term rental unit for his or her property. In cases where a business entity or trust is the owner of the property, the individual who has responsibility for overseeing the property on behalf of the business entity or trust may submit the application on behalf of the business entity or trust. If the owner of a short-term rental unit is a business entity, the business must submit documentation to demonstrate that the business is in good standing with the Tennessee Secretary of State.

(iv) The applicant must designate a person who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of:

(A) Being able to physically respond, as necessary, within forty-five (45) minutes of notification of a complaint regarding the condition, operation, or conduct of occupants of the short-term rental unit; and

(B) Taking any remedial action necessary to resolve any such complaints. This contact person may be the owner, a lessee, or the owner's agent.

(v) The applicant must provide full legal name, street and mailing addresses, email address, and telephone number, and in cases where a business entity or trust is the owner of the property, the individual who has responsibility for overseeing the property on behalf of the business entity or trust must also provide his or her mailing address, email address, and telephone number of the individual having such responsibility.

(vi) A site plan and floor plan accurately and clearly depicting the size and location of the existing dwelling and the

approximate square footage in the dwelling, any accessory buildings, the number and location of designated off-street parking spaces and the maximum number of vehicles allowed for overnight occupants. The floor plan shall also describe the use of each room in the dwelling and the number of bedrooms, including how many beds and the size of beds in each bedroom.

(vii) The applicant must acknowledge in writing that in the event a permit is approved and issued, the applicant will assume all risk and indemnify, defend and hold the City of Maryville harmless concerning the city's approval of the permit, the operation and maintenance of the short-term rental unit, and any other matter relating to the short-term rental unit.

(viii) If previously operating under subsection (b)(i), the applicant must provide applicable valid business licenses along with proof that the applicant remitted taxes due on renting the short-term rental unit, pursuant to *Tennessee Code Annotated*, title 67, chapter 6, part 5 for filing periods that cover at least six (6) months within the twelve (12) month period immediately preceding November 6, 2018 when short-term rental units were prohibited by ordinance in the City of Maryville.

(d) Fees. An application for an operating permit under this subsection shall be accompanied by a fee of three hundred dollars ($300.00). Said fee is designed to reimburse the city for the cost of processing the application and inspecting the short-term rental unit as necessary. There shall be no proration of fees, and once paid, they are non-refundable.

(e) Issuance of permit. Once the development services staff has determined that the application is complete, a permit shall be issued or denied within fourteen (14) business days. If the development services staff is satisfied that the application and the short-term rental unit conforms to the requirements of this subsection and other applicable laws and ordinances, a permit shall be issued to the applicant. If the application or short-term rental unit does not conform to the requirements of this subsection or other pertinent laws or ordinances, the permit shall not be issued, but the applicant will be advised in writing of the deficiencies and be given a reasonable opportunity to correct them. If not corrected within a reasonable period of time, the application will be permanently denied and written notice of the denial given. The operating permit shall be valid for one (1) calendar year from the date of issuance, unless the operating permit is revoked pursuant to this subsection or terminated by ordinance or otherwise.

(i) Permit renewal. Unless suspended or revoked for a violation of any provision of this subsection or other law, city ordinance or rule, a permit may be renewed annually upon payment of a renewal fee of one hundred dollars ($100.00), unless

one of the conditions set forth in subsection (l) below are applicable. As with the application fee, this fee is designed to compensate the city for the cost incurred in processing the application and taking any other action necessary to attempt to ensure the applicant's compliance with this subsection. The renewal fee shall be paid no later than fourteen (14) business days prior to the expiration date for the current permit. A renewal application shall be submitted to the development services department. A renewed operating permit shall be good for one (1) calendar year from the date of issuance.

(ii) Permit non-transferable. A permit issued under this subsection is non-transferable, and any attempt to transfer it shall render the permit void. A transfer of the ownership interest in the property itself shall also render the permit void, whether the transfer is voluntary or involuntary and whether by deed, court order, foreclosure, bylaw, or otherwise.

(f) No vested rights. Except in instances where constitutional principles or binding state or federal laws otherwise provide, the provisions of this subsection and any ordinances or other measures concerning short-term rental units are not a grant of vested rights to continue as a short-term rental unit indefinitely. Any short-term rental unit use, and permits for short-term rental units, are subject to provisions of other ordinances, resolutions, or other city measures concerning short-term rental units that may be enacted or adopted at a later date, even though such ordinances, resolutions, or other city measures may change the terms, conditions, allowance, or duration for short-term rental unit use, including, but not limited to, those that may terminate some or all short-term rental unit uses, with or without some period of amortization. While this recitation concerning vested rights is implicit in any uses permitted by the city, this explicit recitation is set forth to avoid any uncertainty or confusion.

(g) Compliance with city and state laws. It shall be unlawful to operate a short-term rental unit in a manner that does not comply with all applicable city and state laws. The operation or maintenance of a short-term rental unit in violation of this subsection shall subject the violator to all actions authorized by this subsection and/or Tennessee law and regulations by the city.

(h) Complaints. All complaints regarding short-term rental units shall be filed with the development services department. Those making complaints are specifically advised that any false complaint made against a short-term rental unit owner or provider is punishable as perjury under *Tennessee Code Annotated*, § 39-16-702. For any complaint made, the city shall provide written notification of the complaint by regular mail to the owner of the property at the address(es) provided on the application on file. The city shall investigate the complaint, and

within thirty (30) days of the date notice was sent to the owner, the owner shall respond to the complaint, and may present any evidence they deem pertinent, and respond to any evidence produced by the complainant or obtained by the city through its investigation. If, after reviewing all relevant material, the city finds the complaint to be supported by a preponderance of the evidence, the city may take, or cause to be taken, enforcement action as provided in this subsection or otherwise in the zoning ordinance, municipal code, or the generally applicable law.

(i) Revocation of permit. The city may permanently revoke an operating permit if the city discovers that:

(i) An applicant obtained the permit by knowingly providing false information on the application;

(ii) The continuation of the short-term rental unit presents a threat to public health or safety;

(iii) The owner ceases to own the property;

(iv) The property is not used as a short-term rental for a period of thirty (30) months or more; or

(v) There has been a violation of a generally applicable local law three (3) or more separate times arising as a result of the operation of the property as a short-term rental unit and all appeals from the violations have been exhausted.

(j) Appeal of denial or revocation. If a permit is revoked, development services staff shall state the specific reasons for the revocation. Any person whose application has been denied or whose operating permit has been revoked may appeal such denial to the board of zoning appeals. Such appeal must be taken within thirty (30) consecutive calendar days of the final action, in accordance with the procedures in §§ 14-205 and 14-206. The appeal shall be filed along with an appeal fee of one hundred fifty dollars ($150.00). The decision resulting therefrom shall be final and subject only to judicial review pursuant to state law.

(k) Additional remedies. The remedies provided in this section are not exclusive, and nothing in this subsection shall preclude the use or application of any other remedies, penalties or procedures established by law.

(l) The city shall not enforce private agreements. The city shall not have any obligation or be responsible for making a determination regarding whether the issuance of an operating permit or the use of a dwelling as a short-term rental unit is permitted under any private agreements or any covenants, conditions, and restrictions or any of the regulations or rules of the homeowners' association or maintenance organization having jurisdiction in connection with the short-term rental unit, and the city shall have no enforcement obligations in connection with such private agreements or covenants, conditions and restrictions or such regulations or rules.

(m) Taxes. All short-term rental unit operators are responsible for applicable taxes, including, but not limited to, hotel occupancy privilege tax, local option sales tax, and gross receipts tax to the city, sales tax to the State of Tennessee, and gross receipts tax to the State of Tennessee.

(n) Advertising. It shall be unlawful to advertise any short-term rental unit without the operating permit number clearly displayed on the advertisement. For the purposes of this section the terms "advertise," "advertising" or "advertisement" mean the act of drawing the public's attention to a short-term rental unit in any forum, whether electronic or non-electronic, in order to promote the availability of the short-term rental unit.

(o) Maximum occupancy. The number of transients in a short-term rental unit shall not exceed the sum of two (2) transients per bed and no more than two (2) beds per room, with a set of bunk beds counting as one (1) bed; however, the maximum occupancy of the short-term rental unit shall not exceed twelve (12) persons, including transients and any other individuals residing in, or otherwise using, the short-term rental unit.

(p) Severability. The city hereby declares that should any section, paragraph, sentence, phrase, term or word of this subsection be declared for any reason to be invalid, it is the intent of the city that it would have adopted all other portions of this subsection independent of the elimination of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this subsection is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this subsection.

(q) The city has no mechanism for determining whether properties offered to the public as short-term rentals offer appropriate safety features, such as smoke alarms, carbon monoxide detectors, and fire extinguishers, and the city has no mechanism for determining which properties are being used for this purpose. (1999 Code, § 14-211, as amended by Ord. #2019-11, May 2019 and Ord. #2019-22, Nov. 2019, Ord. #2021-02, Feb. 2021, Ord. #2021-06, March 2021, Ord. #2021-10, March 2021, and Ord. #2024-08, May 2024)

14-212. Site plan review process. (1) Definitions. For the purpose of this section, the following words and phrases shall have the meaning assigned below, except in those instances where the context clearly indicates a different meaning. Other terms are defined in § 14-202 of this chapter.

(a) "Site plan." A plan delineating the overall scheme of the development of a tract of land, including, but not limited to, grading utilities, engineering design, construction details and survey data for existing and proposed improvements, size, height, shape and location of

buildings, location and design of parking area, pedestrian and vehicular circulation on site and circulation of emergency apparatus.

(b) "Site plan review team." The site plan review team shall consist of the following persons or their representatives: sanitation superintendent, city engineer, stormwater program manager, city building official, fire marshal, city planner, electrical engineering and operations manager, and the respective superintendents of water and wastewater, and any additional members that the city manager elects to appoint or are needed during a project.

(2) Exceptions. The provisions of this section shall not apply to:

(a) Single-family dwellings, two (2) family attached dwellings, three (3) family attached dwellings, four (4) family attached dwellings, and accessory building thereto, or to the land on which they are situated or proposed in which new road or utility construction is not required.

(b) Additions to buildings where the total gross floor area of the proposed addition does not exceed one-third (1/3) of the total gross floor area of the existing building or one thousand (1,000) square feet, whichever is less.

(c) New buildings, with a height of two (2) stories or less, where the total gross floor area does not exceed two thousand (2,000) square feet; provided, there is no alteration of drainage flow of land, the site is not in a floodplain, and the site is not in excess of ten thousand (10,000) square feet.

(d) Grading of open area, either by excavation or fill for the sole purpose of bringing the land to a grade compatible with the surrounding area; provided the city engineer finds on an inspection of the site that such grading should have no adverse effect on the land of surrounding property owners, should not encroach on or impair existing drainage channels or floodplains and should not cause problems of erosion, ponding and/or silting on adjoining properties. However, approval of such work may be required from other departments in the city as required by the city engineer.

(3) Request for preliminary review of site. The owner or developer of the parcel proposed for development may request the site plan review team conduct a preliminary review of the parcel prior to submission of a site plan. Certain requirements of this section may be waived at the discretion of the site review team base on this preliminary review.

(4) Approved site plan required to erect buildings. Except as hereinafter provided in subsection (2) above, it shall be unlawful for any person to construct or erect any building or structure, extend utilities, or construct new roads on any land within the city until a site plan has been submitted and approved in accordance with the provisions of this section.

(5) Site plan submission and review. (a) A site plan may be prepared under the direction and sealed by an engineer, architect, landscape architect, or land surveyor competent to design such plans. All drainage

and utility designs and structural elements such as, but not limited to, retaining walls, engineered slopes, etc., shall be designed by an engineer.

(b) The owner, developer or a duly authorized agent of the owner or developer shall submit five (5) hard copies and a digital file in a format as determined by the city engineer or ten (10) complete paper copies of the site plan before 5:00 P.M. on the Monday before a Friday site plan review meeting. The plan will be reviewed on Tuesday morning for compliance with minimum requirements before being placed on the agenda of the Friday site plan review meeting. If the plan does not meet the minimum requirements it shall be returned with a list of those items necessary to meet the minimum requirements. If the plan meets the minimum requirements it shall be placed on the agenda for the Friday site plan review meeting at which time the site plan review team shall consider the site plan in accordance with the provisions of this section and it shall be approved or disapproved. No site review meeting will occur during the week of a city designated holiday. If the plan is approved, it shall be stamped approved and initialed by each member of the site plan review team and two (2) copies shall be returned to the owner, developer or his duly authorized agent. It shall be the responsibility of that owner developer or agent to ensure that this approved plan shall be followed throughout the construction process. A copy of the approval plan shall be kept on the project during all phases of construction. If the plan is disapproved it shall be returned along with a list of the requirements necessary to complete the plan. The plan shall be corrected and resubmitted for approval by all applicable departments.

(c) The owner, developer or the duly authorized agent of the owner or developer shall be invited to attend the site review meeting in order to expedite the resolution problem areas.

A building permit shall not be issued for any project except as provided in subsection (2) above of this section unless the request is accompanied by an approved site plan.

(d) Notwithstanding the provisions of *Tennessee Code Annotated*, § 13-4-310, site plans shall expired after one (1) year from the date of approval unless at least ten percent (10%) of the development has been completed as determined by the site plan review team. If a development is designed to be completed in stages, then the approved site plan shall only apply to the phase under construction.

(6) Site plan. (a) The site plan shall show the following:

(i) Location or vicinity map.

(ii) Name of development or address.

(iii) Name and address of owner of record and the applicant.

(iv) Present zoning of the site and abutting property.

(v) Date, scale, and north point with reference to source of meridian.

(vi) Courses and distances of centerline of all street and alley rights-of-way and all property lines as per recorded plat.

(vii) All building restricting lines, highway setback lines, utility easements, and covenants.

(viii) Topography of existing ground and paved area and elevations of streets, alleys, utilities, sanitary and storm sewers, and buildings and structures. Topography to be shown by dashed line illustrating two foot (2') contours as required by the city engineer and by spot elevations where necessary to indicate flat areas.

(ix) Benchmarks for all elevations shall be shown on the site plan. The city engineer may require that this benchmark reference the Tennessee Grid System.

(b) The site plan shall show the location of the following when existing on, or adjacent to, the site:

(i) Sidewalks, streets, alleys, easements and utilities.

(ii) Building, structures and signs.

(iii) Public sewer systems.

(iv) Slopes, terraces and retaining walls.

(v) Driveways, entrances, exits and parking areas.

(vi) Water mains and fire hydrants.

(vii) Trees and shrubs.

(viii) Recreational areas and swimming pools.

(ix) Natural and artificial watercourses.

(x) Limits of floodplains.

(c) The site plan shall show the location, dimensions, size and height of the following when proposed:

(i) Sidewalks, streets, alleys, easements and utilities.

(ii) Buildings, structures including the front (street) elevation of proposed buildings, and signs.

(iii) Public sewer systems, refuse container pads, and screen for pads.

(iv) Slopes, terraces, and retaining walls.

(v) Driveways, entrances, exits and parking areas.

(vi) Water mains, fire hydrants, service connect locations, and internal sprinkler connections.

(vii) Trees and shrubs.

(viii) Recreational areas.

(ix) Distances between buildings.

(x) Estimates of the following when applicable:

(A) Number of dwelling units.

(B) Number of parking spaces.

(C) Number of loading spaces.

(D) Square feet of floor space.

(E) Number of commercial or industrial tenants and employees.

(F) Plans for collecting stormwater and methods of treatment of natural and artificial watercourses including a delineation of limits or floodplains, if any.

(G) Proposed grading, surface drainage, terraces, retaining wall heights, grades on paving areas, and ground floor elevations of proposed buildings and structures, proposed topography of site shall be shown by two foot (2') contours with an elevation benchmark, as required by the city engineer. The city engineer may require that this benchmark reference the Tennessee Grid System.

(7) Requirements, regulations and restrictions. (a) Any building or structure erected or altered shall comply with the provisions of the Code of the City of Maryville, Tennessee, as amended, and any applicable laws of the State of Tennessee.

(b) Any work or development on the site, including, but not limited to, the following shall comply with the provisions of the Code of the City of Maryville, Tennessee, as amended, and any applicable laws of the State of Tennessee. The grading of land, the installation of utilities, the construction of streets, alleys and retaining walls, the construction of drains and sewers, the construction of off-street parking and the construction or erection of any improvement on the site.

(c) Any building or structures shall be reasonably accessible to fire, police, emergency and service vehicles. When deemed necessary for access by the fire chief, emergency vehicle easements shall be provided. The access for fire, police and emergency vehicles shall be unobstructed at all times.

(d) The width, grade, location, alignment and arrangement of streets, sidewalks, and alleys shall conform to the master plan and/or subdivision regulations of the city as near as is reasonably practicable.

(e) Off-street parking facilities shall have a reasonable slope and be accessible, safe and properly drained.

(f) Streets, sidewalks, and alleys shall insofar as reasonably practicable provide access and good traffic circulation to and from adjacent lands, existing streets, alleys and sidewalks and proposed or planned streets, alleys and sidewalks. Where deemed necessary by the city engineer commercial property fronting on major or secondary thoroughfares (also known as arterials or collectors) shall be required to provide a frontage access road of no less than twenty-four feet (24') in pavement width, with permanent or temporary access to the public thoroughfare to be provided at a location deemed desirable by the city engineer.

(g) Adequate water mains and fire hydrants shall be provided in accessible places in accordance with good firefighting and fire prevention practice acceptable to the chief of the fire department.

(h) Adequate provision shall be made for the collection and disposition of all on-site and off-site stormwater and natural surface water. Natural drainage ways shall be used when it is reasonably practicable to do so, and improvements shall be made to said ways in accordance with good engineering practice when in the opinion of the city engineer, good engineering practice indicates need for improvements.

(i) Adequate provision shall be made for the collection and disposition of all on-site and off-site sanitary sewage.

(j) Adequate provision shall be made to control flooding.

(k) The obstruction of natural watercourses shall be avoided.

(l) Adequate provision shall be made to control the slippage, shifting, erosion, swelling or shrinking of soil.

(m) Adequate provisions shall be made to control the slipping and shifting of buildings and structures.

(n) Adequate provisions shall be made to protect other lands, structures, persons and property.

(8) Inspections and supervision. (a) Inspections during the installation of the required on-site and off-site improvements shall be made by the appropriate city departments as required to certify compliance with the approved site plan and applicable city standards.

(b) The owner or developer shall provide adequate supervision on the site during the installation of all required improvements and have a responsible superintendent or foreman together with one (1) set of approved plans, profiles, and specifications available at the site at all times when the work is being performed.

(c) The installation of improvements as required by this section shall in no case serve to bind the city to accept such improvements for the maintenance, repair or operation of thereof, but such acceptance shall be subject to the existing regulations.

(9) Final review and approval of site plan. (a) When the development has been completed, as proposed on the site plan, the owner or developer may apply for an occupancy permit. If the development has been completed, as proposed by the site plan, an occupancy permit shall be issued. If the site plan review team finds any discrepancies in the level of improvements performed by the developer and the improvements proposed on the site plan, no occupancy permit shall be issued until the discrepancy is corrected. The city may also accept surety instruments for incomplete improvements upon issuance of an occupancy permit.

(b) Permanent water and electrical service will not be provided to the development if an occupancy permit has not been issued for the development.

(10) Appeals. If an applicant determines that his site plan has been unjustly disapproved or that the site plan review team has made requests for conformity to standards other than those set forth in this section, he may appeal the decision of the site plan review team to the board of zoning appeals. (Ord. #2019-23, Nov. 2019)

14-213. Landscaping and screening. (1) Purpose and necessity.

(a) Purpose. Mission of the landscaping and screening section:

(i) To accommodate growth while providing protection to established neighborhoods and property owners;

(ii) To encourage quality development by ensuring attractive and complementary landscaping; and

(iii) To enhance the scenic beauty of Maryville.

(b) Because of projected growth in the city, a landscaping and screening section is necessary for the following reasons:

(i) To lessen the impact of high intensity land uses that adjoin lower intensity land uses. Commercial development sometimes encroaches on residential neighborhoods. This section is a law requiring that a strip of trees, bushes, and/or fences act as a buffer between high intensity land uses (such as a shopping center or convenience store) and low intensity land uses (such as residential housing). This helps ensure that development can occur around established areas with minimal impacts.

(ii) To create adequate screening within residential zones to protect existing residential properties. Sometimes new developments have the potential to decrease privacy for existing residential areas, especially when new "activity centers" (a parking lot, playground, swimming pool, driveways, sports fields, club houses, etc.) are built near existing property boundaries. Screening of activity centers increases privacy for residents while accommodating development.

(iii) To protect existing residential properties from glare associated with outdoor lighting. Excessive glare and light trespass on existing properties is a growing concern for many Maryville residents. This section minimizes the amount of light that can shine across property lines.

(iv) To ensure that Maryville's "best foot forward" will be presented to potential residents, businesses and tourists. At the junction of several major approaches to the Great Smoky Mountains, Maryville has the opportunity to leave a favorable impression on millions of travelers. As a National Arbor Day Foundation "Tree City, USA," this section satisfies an important criterion for maintaining this designation.

(2) Definitions. As used in this section, the following words and phrases shall have the following meanings:

(a) "Activity center" means any new land use that causes significant noise, glare, and/or loss of privacy for an existing residential property. Screening is only required for activity centers in developments that must submit a site plan, including planned residential developments and planned unit developments. Examples of "activity centers" include, but are not limited to: swimming pools, parking lots, driveways, outdoor sports fields, playgrounds, club houses, etc.

(b) "Caliper" means the diameter of the tree/shrub trunk.

(c) "Canopy spread" means the diameter of vegetative cover.

(d) "Foot-candle" means the measure of light per square foot.

(e) "Hardship" means lots that are less than one half (1/2) acre in area, extraordinarily configured (as determined by the board of zoning appeals), and not exceeding one hundred fifty feet (150') in depth.

(f) "High intensity use," for purposes of this section, means any use other than single-family or two (2) family residential.

(g) "Incompatible land use" means high intensity land uses (industrial, office, commercial, etc.) when they adjoin low intensity land uses (one (1) and two (2) family residential).

(h) "Lamp" means the component of a luminaire that produces the actual light.

(i) "Landscaping" means beautification of a tract of land by decorative planting.

(j) "Low intensity use," for purposes of this section, means single-family residential or two (2) family residential uses.

(k) "Luminaire" means a complete lighting system which includes a lamp(s) and a fixture.

(l) "Lumen" means a unit of luminous flux. One (1) foot-candle is one (1) lumen per square foot. For purposes of this section, the lumen-output values shall be the initial lumen output ratings of a lamp.

(m) "Opaque" means visually impenetrable.

(n) "Point by point foot-candle diagram" means a simple plat or photometric drawing that displays the foot-candle reading at certain points on a property.

(o) "Public view(s)" means the prevailing view(s) that is (are) directly in sight of the general public.

(p) "Screen" means a partition (such as a wall or fence) and/or vegetation (such as screening trees, screening shrubs, and shade trees in a row) used to protect established neighborhoods, existing properties, and the public view.

(q) "Screening shrubs" will grow to at least eight feet (8') and have a mature canopy spread of at least five feet (5').

(r) "Screening trees" means exclusively for screening incompatible property uses because of their density and opacity. Minimum height at installation and maturity are eight feet (8') and eight feet (8') respectively.

(s) "Shade trees" means in addition to screening trees to provide additional opacity and shade. Minimum height at installation: twelve feet (12') and two inches (2") caliper. Minimum height at maturity: thirty-five feet (35') and canopy spread of twenty feet (20').

(t) "Variance" means a grant of permission by the Maryville Board of Zoning Appeals or the regional board of zoning appeals that authorizes the recipient to do that which, according to the strict letter of this section, he/she could not otherwise legally do.

(3) Applicability. The section shall apply to any non-residential development that abuts residential property.

(4) Landscape plan submittal. A landscape plan for each development must be submitted to the department of planning. The approval process for the landscape plan shall take place during weekly site plan review meetings. In addition to the "minimum site plan requirements" found on page four (4) of *The City of Maryville Site Plan Approval Process* booklet (copies are available at the planning department), all landscape plan submittals will be reviewed for the following three (3) general categories and sub-elements:

(a) Existing vegetation inventory. General location, type, and quality of existing vegetation; existing significant trees and/or vegetation to be saved (a variance can be requested to save historic, old and/or large trees. Setback requirements can be modified to save existing trees. Contact the planning department for more details); and methods and details for protecting significant vegetation during construction.

(b) Planting proposal. General location and labels for all proposed plants; plant lists or schedules with the botanical and common name, quantity, and spacing of all proposed landscape material at the time of planting; and planting and installation details as necessary to ensure conformance with all required standards.

(c) Built features list. Light poles/structures; a point-by-point foot-candle plat (see outdoor lighting requirements); and, general location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas;

(5) Landscaping and screening types. (a) In order to provide the greatest possible flexibility, several landscaping and screening types are available to accommodate a variety of different physical land features in the Maryville area. Screening types A, B, and C, are in place to screen new development from incompatible land uses or activity centers. Any form of screening types A, B, or C may be chosen depending on each site's topography and situation.

The successful location of a landscape buffer to adequately screen a new development from an existing residential use is dependent on several variables. For most projects, particularly for projects that are on level topography with adjacent residential uses, the landscape buffer will likely be proposed and approved along the outer perimeter of the property

line. However, when existing and proposed topography varies between proposed development and adjacent residential use, the landscape buffer must be more closely evaluated. The zoning administrator has authority to require relocation of proposed landscape buffer locations if he determines a more effective buffer location would maximize the short and long-term visual effectiveness and survivability of the landscape buffer. Review of proposed landscape buffers will be based on the following attributes: existing and proposed topography between the new development and adjacent residential use; location of utilities; elevation of building pads; location of buildings; desirable views to protect; and height of walls.

Type A: Existing natural screen. For those properties that have significant vegetation that exists along property lines and may be appropriate for screening, the type A option should be chosen. The width of the natural screen shall be at least twenty-five feet (25'). If a substantial screen of less than twenty-five feet (25') exists, a written request can be sent to the administrator for review. To ensure that all existing natural screens are consistent in opacity and depth, a site visit by the planning department will be necessary to determine if the natural screen is in the spirit of the type A option. For those properties that have little or no existing vegetation, type B or C should be used.

Type B: Dense screen*. Any of the following variations may be chosen for the type B option:

(i) Type B (1): Screen width of fifteen feet (15') and above. Screening trees** spaced at a maximum of ten feet (10') as measured trunk to trunk; and shade trees** spaced at a maximum of twenty feet (20') apart.

(ii) Type B (2): Screen width of ten feet (10') to fifteen feet (15'). Screening trees** spaced at a maximum of ten feet (10') as measured trunk to trunk; shade trees** spaced at a maximum of twenty feet (20') apart; and screening shrubs** spaced at a maximum of five feet (5') apart.

*Trees and shrubs already in place should be implemented into the landscaping pattern.

**All plantings shall meet the installation and planting size requirements specified in the plant installation specifications section.

Type C: Combination screen*. Any of the following variations may be chosen for the type C option:

(A) Type C (1): Screen width of fifteen feet (15') and above. Screening trees** spaced at a maximum of fifteen feet (15') as measured trunk to trunk or two (2) staggered rows of screening shrubs** spaced at a maximum of ten feet (10') apart. The plantings shall face the existing property; and an opaque fence or masonry wall of at least six feet (6') in height which shall face the new development.

(B) Type C (2): Screen width of ten feet to fifteen feet (10-15'). Screening Trees** spaced at a maximum of ten feet (10') as measured trunk to trunk or two (2) staggered rows of screening shrubs** spaced at a maximum of seven feet (7') apart. The plantings shall face the existing property; and an opaque fence or masonry wall of at least six feet (6') in height which shall face the new development.

*Trees and shrubs already in place should be implemented into the landscaping pattern.

**All plantings shall meet the installation and planting size requirements specified in the plant installation specifications section.

(b) If a proposed high intensity development is bordered by existing lower intensity development across a street, type D, "street buffer" is required.

Type D: Street screening*. Where a proposed commercial, office, or high-intensity residential development (more than two (2) family residential) borders any residential development on the opposite side of a street, alley, or other public or private way, type D screening is required. Choose from the following: Minimum ten feet (10') screen width: An opaque fence or masonry wall of at least six feet (6') in height with a series of screening trees** spaced at a maximum of fifteen feet (15') from trunk to trunk on alternating sides of the fence/wall and screening shrubs** shall alternate between the trees on the street side of the fence/wall. Screening must be planted on the property at a minimum distance of ten feet (10') from the street right-of-way to observe utility easements). Plantings must not impair vision or line of sight of ingress and egress.***

*Trees and shrubs already in place should be implemented into the landscaping pattern.

**All plantings shall meet the installation and planting size requirements specified in the plant installation specification section.

***The engineering department will review the site plan to make sure that sight distance is adequate before landscaping can begin.

The planning department staff is authorized to consider proposed alternatives to the street screening, type D, as long as the proposed buffer or screen meets or exceeds the opacity requirements of this section. Proposed alternative landscaping plans may eliminate the required fencing if approved by the planning department. A landscape plan will still be required for any alternative to the type D requirements proposed by the applicant.

(6) Outdoor lighting requirements. This section involves the measurement and regulation of light along property lines to protect the privacy, comfort, and character of existing residential neighborhoods. Outdoor lighting is important for night visibility, safety, and security. Outdoor lighting can, however, also invade privacy and cause nuisance if excessive glare and direct

light trespasses on established residential properties. These requirements ensure that new development minimizes the amount of light that may shine on abutting properties. The following is required when installing lights:

(a) A lighting plan may be required (as determined by the planning department);

(b) A light "point by point" foot-candle diagram must be shown on the site plan with a ten foot by ten foot (10' x 10') maximum grid. The diagram should cover the at least ten feet (10') on either side of property lines that border residential zones or uses;

(c) Lighting must not exceed one (1) foot-candle at or beyond the property line zoned or used for residential purposes;

(d) Any luminaire with a lamp(s) rated at a total of more than one thousand, eight hundred (1,800) lumen, and all flood or spot luminaries with a lamp(s) rated at a total of more than nine hundred (900) lumen shall not emit any direct light above a horizontal plane through the lowest direct light emitting part of the luminaire;

(e) Laser source lights or any similar high intensity light for outdoor advertising or entertainment is prohibited; and

(f) The operation of searchlights for advertising purposes is prohibited.

Refer to the matrix below to determine how new developments are required to provide appropriate screening according to their relationship with surrounding land uses. Screening types are described in their entirety in the following pages.

Land Use-Screening Matrix:

	E X I S T I N G			
		1 and 2 Family Residential	Other Residential	Commercial, Industrial and Office
P R O P O S E D	1 and 2 family residential	NA*	NA[1]	NA[1]
	Other residential	A, B, or C	NA	NA
	Commercial, industrial, and office	A, B, or C	A, B, or C	NA[2]
	Any land use with an activity center[3]	A, B, or C	A, B, or C	NA
	Street screening (new high-intensity uses)	NA	D	D
	Outdoor lighting	NA	E	E

NA = Not Applicable

1. No landscaping is required unless a residential activity center is built.
2. If a property is zoned business/transportation or office but the current use of existing property is residential, then screening is required.
3. Landscaping must screen the length of the activity center along the property line plus an additional ten feet (10') on either side.

(7) Plant installation specifications. All landscaping materials shall be installed in a professional manner, and according to accepted planting procedures specified in the *Arboricultural Specifications Manual* or the Tennessee Department of Agriculture, University of Tennessee Extension Services Horticultural Guidelines. All landscaping plants are to be nursery grown and purchased from a state licensed plant and nursery dealer, and must be hardy to Zone 6B.

(a) Shade trees: All shade trees shall be installed at a minimum of two-inch (2") caliper and not less than twelve feet (12') as measured from grade level to the top of the tree crown. Planted trees shall also have a minimum expected maturity height of thirty-five feet (35') and a minimum canopy spread of twenty feet (20'). Evergreen trees can be treated as shade trees provided they meet the minimum maturity height and canopy spread criteria.

Recommended Species

Common Name	Scientific Name
American Beech	Fagus Grandiflora
American Sycamore	Platanus Occidentalis
Ash	Fraxinus
Bald Cypress	Taxodium Distichum
Blackgum	Nyssa Sylvatica
Chestnut	Aesculus
Chinese Elm	Ulmus Parvifolia
Dawn Redwood	Metasequoia Glyptostroboides
Ginkgo (male only)	Ginkgo Biloba
Honey Locust	Gleditsia Triacanthos
Japanese Zelkova	Zelkova Serrata
Kentucky Coffeetree	Gymnocladus Dioicus
Linden	Tilia
London Planetree	Plantanus Acerifolia
Maple (Except Silver)	Acer
Oak	Quercus (any sub-species)
Ohio Buckeye	Aesculus Glabia
River Birch	Betula Nigra
Sweet Bay Magnolia	Magnolia Virginiana
Sweetgum	Liquidambar Styraciflua
Thornless Common	

Honeylocust	Gleditsia Triacanthos Var. Inermis
Tulip Poplar	Liriodendron Tulipfera
Willow	Salix Sp.

(b) Screening trees. All screening trees shall be installed at minimum height of eight feet (8') and have a minimum expected mature canopy spread of eight feet (8'). Screening trees shall be semi-sheared and not natural cut.

Recommended Species

Common Name	Scientific Name
American Holly	Ilex Opaca
Atlas Cedar	Cedrus Atlantica
Canadian Hemlock	Tsunga Caroliniana
Deodar Cedar	Cedrus Deodara
Eastern Red Cedar	Juniperus Virginianan
Foster Holly	Illex Cassine
Leyland Cypress	Xcupressocyparis Leylandii
Nellie Sevens Holly	Ilex X "Nellie Stevens"
White Pine	Pinus Strobus
Savannah Holly	Ilex Attenuata
Southern Magnolia	Magnolia Grandiflora

(c) Screening shrubs. All screening shrubs shall be installed at a minimum size of three (3) gallons and have an expected maturity height of at least eight feet (8') and a mature canopy spread of at least five feet (5').

Recommended Species

Common Name	Scientific Name
Burford Holly	Ilex Cornuta "Burfordi"
Chinese Juniper	Juniper Chinensis Sp.
Dahoon Holly	Ilex Cassine
Leatherleaf Viburnum	Viburnum Rhytidophyllum
Lusterleaf Holly	Ilex Latifolia
Savannah Holly	Ilex X Attenuata "Savannah"
Wax Myrtle	Myrica Cerifera
Cherrylaurel	Prunus Caroliniana
English Laurel	Prunus Laurocerasus
Frunchet's Cotoneaster	Cotoneaster Franchetii
Parney's Cotoneaster	Cotoneaster Lacteus

(d) Landscaping shrubs. To be used if desired in addition to landscaping requirements. All landscaping shrubs shall be installed at a minimum size of three (3) gallons

(e) In addition, earth berms, other shrubs, ground cover, and plant materials may be used to supplement landscaping/screening requirements.

(f) Prohibited plants. The following plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance or nuisance:

Autumn Olive	Mimosa	Shrub Honeysuckle
Common Privet	Mulberry	Siberian Elm
Japanese Honeysuckle	Multiflora Rose	Silver Maple
Garlic Mustard	Paulownia	Silver Poplar
Kudzu Vine	Purple Loostrife	Tree of Heaven
Lespedeza	Poison Ivy/Oak/Sumac	

(g) Prohibited landscaping materials. No rip-rap shall be used except along the edges of basins, ponds, or lakes, or at the end of culverts. All other areas should have culverts installed and covered with soil, flagstone, and/or have fast growing ground covers planted (e.g., Liriope, Junipers, Vinca).

(h) Utility easement policy. Any tree or shrub used to meet the requirements of this section shall not be located within proposed or existing utility easements or inside street rights-of-way. The applicant is responsible for identifying existing and proposed easements.

(8) Maintenance and enforcement. Maintenance of landscaped areas is the ongoing responsibility of the property owner and/or the lessee of the development. Required landscaping must be continuously maintained in a healthy manner. Plants that die must be replaced in kind. Written proof that all specifications of this section have been met provided one (1) year after the planting is completed. The property owner or lessee must provide this documentation to the building inspector.

Enforcement of this landscape section is the responsibility of the Maryville Codes Enforcement Department.

(9) Hardships. The landscaping/screening section does not intend to create undue hardship on affected properties. The following administrative remedies are available when applicable:

(a) An automatic fifty percent (50%) reduction in landscape yard depth requirements for screening; and

(b) A twenty-five percent (25%) reduction in planting requirements (for all sections except for the required screening trees) applies for lots with:

(i) Depths of one hundred fifty feet (150') or less;

(ii) Extraordinary configurations (as determined by the Maryville Board of Zoning Appeals); and/or

(iii) Areas of less than one half (1/2) acre (twenty-one thousand, seven hundred eighty (21,780) square feet or less).

(10) Conflict with other ordinances. Conflict with other articles in the Maryville Land Development regulations: Where any requirement of the landscaping/screening section conflicts with the requirement of another article in the Maryville Land Development Regulations, the most stringent requirement shall prevail. (1999 Code, § 14-213, modified)

14-214. Density and dimensional regulations. (1) Minimum lot size. Subject to the provisions of subsections (4), "Cluster subdivisions" and (5), "Integrally designed subdivisions," all lots in the following zones shall have at least the amount of square footage indicated in the following table:

Zone	Minimum Square Feet	
Residential	7,000	
Without sanitary sewer	30,000	
Without sanitary sewer and public water	35,000	
Environmental conservation	40,000	
Business and transportation	5,000	**
	No minimum	
Central community	5,000	**
	No minimum	
Single-family	11,000	
Office	5,000	
Neighborhood	5,000	
Residential in Oak Park Historic District	16,000	***
College Hill Historic District	14,000	
Estate	43,560	

**If used for residential purposes, otherwise no minimum.
***Refer to city code on nonconforming uses regarding Oak Park Historic District nonconforming situations of duplexes and multi-family structures.

Subject to the provisions in the city land development ordinances concerning nonconforming lots and these regulations, the permit-issuing authority and the owner of two (2) or more contiguous lots may agree to regard multiple lots as a single lot if necessary to comply with any of the requirements of these regulations.

(2) Residential density. (a) Subject to subsection (b) below and the provision of subsections (4), "Cluster subdivisions" and (5), "Integrally designed subdivisions," every lot developed for residential purposes shall have the number of square feet per dwelling unit indicated in the following table. In determining the number of dwelling units permissible on a tract of land, fractions shall be rounded to the nearest whole number.

Zone	Minimum Square Feet
Residential	7,000
without sanitary sewer	30,000
without sanitary sewer and public water	35,000
Central community	5,000
Environmental conservation	40,000
Single-family	11,000
Office	5,000
Neighborhood	7,000
Estate	43,560

(b) Two (2) family conversions and primary residences with an accessory apartment shall be allowed only on lots having at least one hundred fifty percent (150%) of the minimum square footage required for one (1) dwelling unit on a lot in such district. With respect to multi-family conversions into three (3) or four (4) dwelling units, the minimum lot size shall be two hundred percent (200%) and two hundred fifty percent (250%) respectively of the minimum required for one (1) dwelling unit.

(3) Minimum lot widths. (a) No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:

(i) Could be used for purposes that are permissible in that zoning district; and

(ii) Could satisfy any applicable setback requirements for that district.

(b) Without limiting the generality of the foregoing standard, the following indicated minimum lot widths that are recommended and are deemed presumptively to satisfy the standard set forth in subsection

(a) above. The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with lot boundary lines at opposite sides of the lot.

Zone	Lot Width in Feet
Residential	75
Central community	50
Business and transportation	100
Environmental conservation	100
Single-family	75
Office	75
Neighborhood	75
Estate (at front building line)	150

(c) No lot created after the effective date of these regulations that is less than the recommended width shall be entitled to a variance from any building setback requirement.

(4) Cluster subdivisions. (a) In any single-family residential subdivision a developer may create lots that are smaller than those required by subsection (1) above if such developer complies with the provisions of this section and if the lots so created are not smaller than the minimum set forth in the following table:

Zone	Minimum Square Feet
Residential	5,500
Environmental conservation	25,000

(b) The intent of this section is to authorize the developer to decrease lot sizes and leave the land "saved" by so doing as usable open space, thereby lowering development costs and increasing the amenity of the project without increasing the density beyond what would be permissible if the land were subdivided into the size of lots required by subsection (1) above.

(c) The amount of usable open space that must be set aside shall be determined by: Subtracting from the standard square footage requirement set forth in subsection (1) above the amount of square footage of each lot that is smaller than that standard: Adding together the results obtained in subsection (1) above for each lot.

(d) The provisions of this section may only be used if the usable open space set aside in a subdivision comprises at least ten thousand (10,000) square feet of space that satisfies the definition of usable open space.

(e) The setback requirements found in the city code shall apply in cluster subdivisions.

(5) Integrally designed subdivisions. (a) In any integrally designed subdivision, the developer may create lots and construct buildings without regard to any minimum lot size, lot width, or setback restrictions except that:

(i) Lot boundary setback requirements as found in the city code shall apply where and to the extent that the subdivided tract abuts land that is not part of the subdivision; and

(ii) Each lot must be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of these regulations and of the city code.

(b) The number of dwelling units in an integrally designed subdivision may not exceed the maximum density authorized for the tract under subsection (2) above.

(c) To the extent reasonably practicable, in residential subdivisions the amount of land "saved" by creating lots that are smaller than the standards set forth in subsection (1) above shall be set aside as usable open space.

(d) The purpose of this section is to provide flexibility, consistent with the public health and safety and without increasing overall density, to the developer who subdivides property and constructs buildings on the lots created in accordance with a unified and coherent plan of development.

(6) Density on lots where portion dedicated to city. (a) Subject to the other provisions of this section, if any portion of a tract that lies with an area designated on any officially adopted city plan as part of a proposed public park, greenway, or bikeway and before the parcel or tract is developed, the owner of the parcel or tract with the concurrence of the city dedicates to the city that portion of the tract so designated, when the remainder of the tract is developed for residential purposes the permissible density at which the remainder may be developed shall be calculated in accordance with the provision of this section.

(b) If the proposed use of the remaining property after the dedication at issue in subsection (a) above is a single-family detached residential subdivision, then the lots such subdivision may be developed in accordance with the provisions of subsections (4) and (5) above of this section except that the developer need not set aside usable open space to

the extent that an equivalent amount of land has previously been dedicated to the city in accordance with subsection (a) above.

(c) If the proposed use of the remainder is a two (2) family or multi-family project, then the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lots as if it were still part of the lot proposed for development.

(d) If the portion of the tract that remains after dedication as provided in subsection (a) above is divided in such a way that the resultant parcels are intended for future subdivision or development, then each of the resultant parcels shall be entitled to its pro rata share of the "density bonus" provided for in subsections (b) and (c) above.

(7) Building setback requirements. (a) Subject to the other provisions of this section, no portion of any building or any freestanding sign may be located on any lot closer to any lot line than is authorized in the table set forth in this section.

(i) If the street right-of-way is readily determinable (by reference to a recorded map, iron pins, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the centerline of the street.

(ii) As used in this section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.

(iii) As used in this section, the term "building" includes any substantial structure which by nature of its size scale, dimensions, bulk or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structure shall be deemed to fall within this description, except gasoline pump islands, pumps and canopy support poles. The minimum setback requirements for decks/patio are the same as for accessory buildings (which do not exceed twelve feet (12') in height) or is two feet (2') for every foot of height (measured from grade to the top of the railing), whichever is greater.

Fences running along lot boundaries adjacent to public street rights-of-way if such fences exceed six feet (6') in height and are substantially opaque.

(b) Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the property line setback requirement applicable to the residential lot is greater than that applicable to the nonresidential lot, then the lot in the nonresidential

district shall be required to observe the property line setback requirement applicable to the adjoining residential lot.

(c) Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc).

Subject to the provisions stated above, the following structural projections shall be allowed to encroach within designed setbacks not to exceed three feet (3'): awnings; canopies; bay windows; chimneys; planter boxes and the like; overhanging cornices; eaves; gutters; roofs; and similar architectural features; minor utilities associated with the structures; open fire escapes; steps, open terraces; unenclosed porches.

(d) Whenever a private road that serves more than three (3) lots or more than three (3) dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three (3) dwelling units is located long a lot boundary, then:

(i) If the lot is not also bordered by a public street, buildings and freestanding signs shall be set back from the centerline of the private road just as if such road were a public street.

(ii) If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes shall be measured from the inside boundary of the traveled portion of the private road.

(e) City of Maryville setback tables:

City of Maryville
Required Building Setbacks (Feet)

	FRONT [note 1]	SIDE	REAR
RESIDENTIAL USES [notes 2,6]			
Estate zone	30	10 [note 3]	25
Other	25	10	20
COMMERCIAL USES [note 2]	20	NONE [notes 4,5]	NONE [notes 4,5]
INDUSTRIAL USES	60	50	60

Notes:

1. All setbacks along street right-of-way property lines shall be considered a "front" setback even if there are multiple "front" setbacks on a lot.
2. Setback from a collector: forty feet (40'); setback from an arterial: fifty feet (50').
3. In estate zones, side setbacks shall be fifteen feet (15') for dwelling with more than one (1) story.
4. If commercial uses are adjacent to residential uses: ten feet (10') side and/or ten feet (10') rear.
5. Gasoline pump island and canopy supports setback from collector or arterial: thirty-five feet (35').
6. Setbacks within Impact Overlay Districts and planned unit developments shall be established by BZA on review of the proposed site plan.

City of Maryville
Residential Accessory Building Setback Requirements

Setbacks for accessory buildings that do not exceed 12 feet in height (Feet)

	REAR YARD	SIDE YARD	STREET R-O-W
RESIDENTIAL ZONES	5	10	See note
ESTATE ZONE	10	10	See note

Note: Street R-O-W setback same as principle structure.

Setbacks for accessory buildings that exceed 12 feet in height (Feet)

	REAR YARD	SIDE YARD	STREET R-O-W
RESIDENTIAL ZONES	5+2 per every ft. over 12 in height	10+2 per every ft. over 12 in height	See note
ESTATE ZONE	10+2 per every ft. over 12 in height	10+2 per every ft. over 12 in height	See note

Note: Street R-O-W setback same as principle structure.

Accessory structure setbacks are not required to exceed primary structure setbacks.

(8) Building height requirements. (a) For purposes of this section:

(i) The height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building.

(ii) A point of access to a roof shall be the top of any parapet wall or the lowest point of a roof's surface, whichever is greater. Roofs with slopes greater than seventy-five percent (75%) are regarded as walls.

(b) Subject to the remaining provision of this section, building height limitations in the various zoning districts shall be as follows:

Zone	Height Limitation (in feet)
Environmental conservation	35
Residential	35
Central community	55
Business and transportation	55
Single-family	35
Office	35
Neighborhood	35

(c) Subject to subsection (d) below, the following features are exempt from the district height limitations set forth in subsection (b) above:

(i) Chimneys, church spires, elevator shafts, flyspaces for curtains, scenery, or lighting in a theatre, auditorium, or multipurpose structure and similar structural appendages not intended as places of occupancy or storage.

(ii) Flagpoles and similar devices.

(iii) Heating and air conditioning equipment, solar collectors, and similar equipment, fixtures, and devices.

(d) The features listed in subsection (c) above are exempt from the height limitations set forth in subsection (b) above if they conform to all other applicable codes and regulations and to the following requirements:

(i) Not more than one-third (1/3) of the total roof area may be consumed by such features unless approved by the board of zoning appeals.

(ii) The features described in subsection (c)(iii) above must be set back from the edge of the roof a minimum distance of one foot (1') for every foot by which such features extend above the roof surface of the principal building to which they are attached, unless approved by the board of zoning appeals.

(iii) The permit issuing authority may authorize or require that parapet walls be constructed (up to a height not exceeding that of the features screened) to shield features listed in subsections (b)(i) and (iii) above from view.

(e) Notwithstanding subsection (b) above, in any zoning district the vertical distance from the ground to a point of access to a roof surface of any nonresidential building or any multi-family residential building containing four (4) or more dwelling units may not exceed thirty-five feet (35') unless the fire chief certifies to the permit-issuing authority that such building is designed to provide adequate protection against the dangers of fire.

(f) Towers and antennas fifty feet (50') tall or less: all districts; towers and antennas fifty feet (50') tall or more: Business and Transportation District and Central Community District.

(9) Accessory building setback requirements. (a) All accessory buildings in rear yards of lots in residential districts shall be required to observe a five foot (5') setback from the rear and side yards.

(b) All accessory buildings in residential districts must comply with street right-of-way and side lot setback provisions if the accessory building is not to the rear of the principal structure.

(c) Where the high point of the roof or any appurtenance of any accessory building exceeds twelve feet (12') in height, the accessory building shall be setback from the rear lot boundary lines an additional two feet (2') for every foot of height exceeding twelve feet (12').

(d) Maximum lot coverage on principal and accessory buildings shall not exceed forty percent (40%) of the lot.

(e) The cumulative total of accessory structures shall not exceed nine hundred (900) square feet of ground floor area nor shall any accessory structure exceed eighteen feet (18') in height without a special exception permit granted by the board of zoning appeals. (1999 Code, § 14-214, as amended by Ord. #2024-01, Jan. 2024, modified)

14-215. Streets and sidewalks. (1) Access to lots. Every lot shall have access to it that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.

(2) Road and sidewalk requirements in unsubdivided developments.

(a) Within unsubdivided developments, all permanent private easements and access ways shall be designed and constructed to facilitate the safe and convenient movement of motor vehicle and pedestrian traffic. Width of roads, use of curb and gutter, and paving specifications shall be determined by the provisions of the city subdivision regulations and/or applicable city ordinances. To the extent not otherwise covered in the foregoing subsections, and to the extent that the requirements set forth

in this section for subdivision streets may be relevant to the roads in unsubdivided developments, the requirements of this section may be applied to satisfy the standards set forth in the first sentence of this subsection.

(b) Whenever a road in an unsubdivided development connects two (2) or more sub collector streets, collector streets, or arterial streets (as the same are defined in the city subdivision regulations) in such a manner that any substantial volume of through traffic is likely to make use of this road, such road shall be constructed in accordance with the standards applicable to subdivision streets and shall be dedicated. In other cases when roads in unsubdivided developments within the city are constructed in accordance with the specifications for subdivision streets, the city may accept an offer of dedication of such streets.

(c) In all unsubdivided residential developments, sidewalks shall be provided linking dwelling units with other dwelling units, the public street, and on-site activity centers such as parking areas, laundry facilities, and recreational areas and facilities.

(d) Whenever the permit-issuing authority finds that a means of pedestrian access is necessary from an unsubdivided development to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the roads, the developer may be required to reserve an unobstructed easement of at least ten feet (10') to provide such access.

(e) The sidewalks required by this section shall be at least five feet (5') wide and constructed according to specifications outlined by the city director of engineering and public works, or his or her designee, and in accordance with other design criteria adopted by the city, except that the permit-issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that:

(i) Such walkways would serve the residents of the development as adequately as concrete sidewalks; and

(ii) Such walks could be more environmentally desirable or more in keeping with the overall design of the development.

(3) Attention to handicapped in street and sidewalk construction.

(a) Whenever curb and gutter construction is used on public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with the current adopted building code, in the current edition otherwise adopted by the city, as enforced by the city building inspector.

(b) In unsubdivided developments, sidewalk construction for the handicapped shall conform to the requirements of the building code of the City of Maryville.

(4) Street names and house numbers. (a) Street names shall be assigned by the developer subject to the approval of the permit-issuing authority. Proposed streets that are obviously in alignment with existing streets shall be given the same name. Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within the city's planning jurisdiction, regardless of the use of different suffixes (such as those in subsection (b) below).

(b) Street names shall include a suffix such as the following:

(i) Circle. A short street that returns to itself.

(ii) Court or place. A cul-de-sac or dead-end street.

(iii) Loop. A street that begins at the intersection with one (1) street and circles back to end at another intersection with the same street.

(iv) Street. All public streets not designated by another suffix.

(c) Building numbers shall be assigned by the city.

(d) Street signs shall be placed appropriately by the developer or subdivider in a new subdivision. The developer shall install signs where indicated by the city director of engineering and public works, or his or her designee.

In the event the street is a designated private street, then those who are responsible for the maintenance of the said private street shall also be responsible for the installation and maintenance of all traffic control devices.

All devices shall conform to size, material and location criteria found in the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*.

(5) Bridges. All bridges shall be constructed in accordance with the standards and specifications of the Tennessee Department of Transportation, except that bridges on roads not intended for public dedication may be approved if designed by a licensed architect or engineer.

(6) Utilities. Utilities installed in public rights-of-way or along permanent private easements shall conform to the requirements set forth in § 14-216. (1999 Code, § 14-215)

14-216. Utilities. (1) Utility ownership and easement rights.

(a) In any case in which a developer installs or causes the installation of water, sewer, electrical power, telephone, cable television, or stormwater facilities and appurtenances and intends that such facilities shall be owned, operated, or maintained by the public utility or other entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership and/or easement rights to enable the utility or entity to operate and maintain such facilities.

(b) Drainage and utility easements shall be five feet (5') in width along interior boundary lines of lots in a subdivision and shall be ten feet (10') in width along all exterior lot lines where adjoining lot or property is not subject to a similar easement at least five feet (5') in width. A ten foot (10') utility and drainage easement shall exist along platted rights-of-way and be determined by this section to be an exterior lot line. Such dedication shall be noted on the final plat of a subdivision, unless otherwise required by the appropriate reviewing agency.

(2) Lots served by governmentally owned water or sewer lines. Water and sewer connection requirements shall be determined based on the rules, rates, regulations and policies of the City of Maryville Water Quality Control Department.

(3) Sewage disposal facilities required. Every principal use and every lot within a subdivision shall be served by sanitary sewer as provided in subsection (2) of this section or by a sewage disposal system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations. For purposes of complying with all local health department regulations, if the lot uses a subsurface sewer disposal system and is served by a public water supply, there shall be a minimum of thirty thousand (30,000) square feet of useable lot area for lots developed for residential purposes. If a lot is developed for residential purposes and sanitary sewer and public water are not available to the lot, then the minimum lot area per unit shall be thirty-five thousand (35,000) square feet.

(4) Determining compliance with § 14-216(3). (a) Primary responsibility for determining whether a proposed development will comply with the standards set forth in subsection (3) above often lies with an agency other than the city, and the developer must comply with the detailed standards and specifications of such other agency. The relevant agencies are listed in subsection (b) below. Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed sewage disposal system, the authority issuing a permit under these regulations may rely upon a preliminary review by such agency of the basic design elements of the proposed sewage disposal system to determine compliance with subsection (3) above. However, construction of such system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.

(b) In the following table, the IF statement describes the type of development and the THEN statement indicates the agency that must certify to the city whether the proposed sewage disposal system complies with the standards set forth in subsection (3) above.

(i) IF the use is located on a lot that is served by the city sewer system or a previously approved, privately-owned package treatment plant, and the use can be served by simple connection

to the system (as in the case of a single-family residence) rather than the construction of an internal collection system (as in the case of a shopping center or apartment complex):
THEN no further certification is necessary.

(ii) IF the use (other than a subdivision) is located on a lot that is served by the city's sewer system but service to the use necessitates construction of an internal collection system (as in the case of a shopping center or apartment complex); and

(A) IF the internal collection system is to be transferred and maintained by the city:
THEN the internal collection system must meet the standards of the city from design to installation.

(B) IF the internal collection system is to be privately maintained:
THEN the city must certify that the proposed collection system is adequate.

(iii) IF the proposed use is a subdivision;

(A) IF lots within the subdivision are to be served by simple connection to existing city lines or lines of a previously approved private system:
THEN no further certification is necessary.

(B) IF lots within the subdivision are to be served by the city system but the developer will be responsible for installing the necessary additions to the city system:
THEN the internal collection system must meet the standards of the city from design to installation.

(c) On subdivision plats depicting property within the city where existing Subsurface Sewer Disposal (SSD) systems exist, it shall be required that these subdivisions contain wording or notations as follows:

"In accordance with the policies of the Tennessee Department of Environment and Conservation, the Blount County Health Department has not evaluated the existing Subsurface Sewerage Disposal (SSD) system on lot(s) represented on this plat. In approving this plat for recordation, the Maryville Municipal Planning Commission makes no representation as to the performance of the existing SSD system."

If additional language is required by the planning commission than that stated in this section, it shall be added and appropriately noted on the plat starting where existing subsurface sewage disposal systems exist.

(5) Water supply system required. Every principal use and every lot within a subdivision shall be served by a water supply system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.

(6) Determining compliance with § 14-216(5).

(a) Primary responsibility for determining whether a proposed development will comply with the standards set forth in subsection (5) above often lies within an agency other than the city and the developer must comply with the detailed standards and specifications of such other agency. The relevant agencies are listed in subsection (b) below. Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed water supply system, the authority issuing a permit under this section may rely upon a preliminary review by such agency of the basic design elements of the proposed water supply system to determine compliance with subsection (5) above. However, construction of such system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.

(b) In the following table, the IF statement describes the type of development and the THEN statement indicates the agency that must certify to the city whether the proposed water supply system complies with the standards set forth in subsection (5) above.

(i) IF the use is located on a lot that is served by the city water system or a previously approved, privately-owned public water supply system and the use can be served by simple connection to the system (as in the case of a single-family residence) rather than the construction of an internal distribution system (as in the case of a shopping center or apartment complex):
THEN no further certification is necessary.

(ii) IF the use (other than a subdivision) is located on a lot that is served by the city water system but service to the use necessitates construction of an internal distribution system (as in the case of a shopping center or apartment complex); and the internal distribution system is to be transferred to and maintained by the city:
THEN the proposed internal distribution system must meet the standards of the city from design to installation.

(iii) IF the use (other than a subdivision) is located on a lot not served by the city system or a previously approved, privately-owned public water supply system; and

(A) IF the use is to be served by a privately-owned public water supply system that has not previously been approved:
THEN the Tennessee Department of Environment and Conservation must certify that the proposed system complies with all applicable state and federal regulations. The Blount County Health Department must also approve the plans if the water source is well and the system has a design capacity of one million

(1,000,000) gallons per day. A private well system may not be connected to the city utility system.

(B) IF the use is to be served by some other source (such as an individual well):

THEN: The Blount County Health Department must certify that the proposed system meets all applicable state and local regulations.

(iv) IF the proposed use is a subdivision; and

(A) IF lots within the subdivision are to be served by simple connection to existing city lines or lines of a previously approved public water supply system:

THEN No further certification is necessary.

(B) IF lots within the subdivision are to be served by the city system but the developer will be responsible for installing the necessary additions to such system:

THEN the proposed internal distribution system must meet the standards of the city from design to installation.

(C) IF lots within the subdivision are to be served by individual well:

THEN The Blount County Health Department must certify to the city that each lot intended to be served by a well can be served in accordance with applicable health regulations.

(7) Lighting requirements. (a) Subject to subsection (b) above, all public streets, sidewalks, and other common areas or facilities in subdivisions created after the effective date of these regulations shall be sufficiently illuminated to ensure the security of property and the safety of persons using such streets, sidewalks, and other common areas or facilities.

(b) To the extent that fulfillment of the requirement established in subsection (a) above would normally require street lights installed along public streets, this requirement shall be applicable only to residential and commercial subdivisions located within the corporate limits of the city.

(c) All roads, driveways, sidewalks, parking lots, and other common areas and facilities in unsubdivided developments shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities.

(d) All entrances and exits in substantial buildings used for non-residential purposes and in two (2)family or multi-family residential developments containing more than four (4) dwelling units shall be adequately lighted to ensure the safety of persons and the security of the buildings.

(8) Excessive illumination. Lighting within any lot that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if it clearly exceeds the standards set forth in subsection (7) above or if the standards set forth in subsection (7) above could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.

(9) Electric power. Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

(a) If the use is not a subdivision and is located on a lot that is served by an existing power line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is needed.

(b) If the use is a subdivision or is not located on a lot served by an existing power line or a substantial internal distribution system will be necessary, then the electric utility service provider must review the proposed plans and certify to the city that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

(10) Telephone service. Every principal use and every lot within a subdivision must have available to it a telephone service cable adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

(a) If the use is not a subdivision and is located on a lot that is served by an existing telephone line and the use can be served by simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is necessary.

(b) If the use is a subdivision or is not located on a lot served by an existing telephone line or a substantial internal distribution system will be necessary, then the telephone utility company must review the proposed plans and certify to the city that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

(11) Underground utilities. (a) All electric power lines (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, and cable television lines in subdivisions constructed after the effective date of these regulations shall, when placed underground, be done in accordance with the specifications and policies of the respective utility service providers.

(b) All electric power lines (not to include transformers or enclosures containing electric equipment including, but no limited to, switches, meters, or capacitors which may be pad mounted) serving four (4) or more residential lots or developments with apartments, condominiums, townhouses, etc. shall be placed underground. All electric power lines installed underground shall be done in accordance with specifications and policies of the utility service provider as provided for in subsection (a) above of this section.

(c) Whenever an unsubdivided development is hereafter constructed on a lot that is undeveloped on the effective date of these regulations, then all electric power, telephone, gas distribution, and cable television lines installed to serve the development that are located on the development site outside of a previously existing public street right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility companies.

(12) Utilities to be consistent with internal and external development.

(a) Whenever it can reasonably be anticipated that utility facilities constructed in one (1) development will be extended to serve other adjacent or nearby developments, such utility facilities (e.g., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

(b) Whenever it can be reasonably accomplished, when a development is constructed or phased over time and underground utility facilities are used in the initial stages of development, then remaining portions of the development or subdivision shall be serviced with underground utilities.

(c) All utility facilities shall be constructed in such manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

(13) As-built drawings required. When a developer installs, or causes to be installed, any utility line in any public right-of-way, the developer shall, as soon as practicable after installation is complete, and before acceptance of any water or sewer line, furnish the city with a copy of a drawing that shows the exact location of such utility lines. Such drawings must be verified as accurate by the utility service provided. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing such development. As-built drawings shall further be provided for stormwater lines, ponds or any associated infrastructure in the stormwater system. Such as-built drawing shall be approved by the city prior to acceptance by the city of such infrastructure.

(14) Fire hydrants. (a) Every development within the corporate limits (subdivided or unsubdivided) that is served by a public water system

shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located, or intended to be located, within such development.

(b) The presumption established by these regulations is that to satisfy the standards set forth in subsection (a) above, fire hydrants must be located so that all parts of every building within the development may be served by a hydrant by laying not more than five hundred feet (500') of hose connected to such hydrant. However, the fire chief may authorize or require a deviation from this standard if recognized fire safety standards would allow another arrangement more satisfactory which would comply with the standards set forth in subsection (a) above.

(c) The Maryville Fire Chief shall determine the precise location of all fire hydrants, subject to the other provisions of this section. In general, fire hydrants shall be placed six feet (6') behind the curb line of publicly dedicated streets that have curb and gutter.

(d) The water and wastewater division of the utilities board shall determine the design standards of all hydrants as set forth in the rules, regulations, rates and policies for the city water quality control department. Unless otherwise specified by the fire chief, all hydrants shall have two (2) two and one-half inch (2-1/2") hose connections and one (1) five and one-fourth inch (5-1/4") hose connection. The two and one-half-inch (2-1/2") hose connections shall be located at least twenty-one and one-half inches (21-1/2") from ground level. All hydrant threads shall be national standard threads.

(e) Water lines that serve hydrants shall be designed and sized according to the rules, regulations, rates and policies for the City of Maryville Water Quality Control Department. (1999 Code, § 14-216)

14-217. Signs. (1) Title, purpose, and scope. This section shall be known as the "Sign Ordinance of the City of Maryville, Tennessee," and may be so cited, and further referenced elsewhere as "sign ordinance" and herein as "the ordinance" or "this section" shall imply the same wording and meaning as the full title.

The general purpose and intent of this section shall be the fair and comprehensive regulation of signs. The intent of this section is to assist the economic development of the city without lessening the citizenry's quality of life. The regulations as set forth in this section are established to provide for the public safety, area development, preservation of property values, and the general welfare within the city.

The specific purposes of this section include, but not limited to:

(a) Aiding in traffic control and safety through the regulation of undue concentration of signs which could be distracting and which could adversely impact traffic safety and traffic flow;

(b) Protecting property values by avoiding unnecessary visual competition and the uncontrolled proliferation of signs;

(c) Lessen congestion of available land and air spaces by the establishment of reasonable standards for commercial and other advertising through the use of signs so as not to be a future detriment to business activity and area development;

(d) Recognizing the rights of the public when using the roads, streets, highways, and other public rights-of-way; and

(e) Preserve the attractive character of the city.

This section will regulate all signs within the City of Maryville except those located within the interior of buildings and/or structures. All signs which are located either on or to the exterior of a building are to be regulated. All signs erected by local, state, and federal governmental agencies are subject to the provisions of this section except as set forth in subsections (4) and (12) herein.

(2) Definitions. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this subsection shall have the meaning indicated when used in this section.

(a) "Animated sign." Any sign which incorporates in any manner visible or mechanical movement within the sign frame and not rotating movement of the sign itself, or visible apparent movement achieved by electrical pulsations.

(b) "Backlighting." Backlighting is the process of illuminating a message from the back of a message area or substrate of a sign board. Lighting from the back of the message area creates a glowing or "halo" effect on or around the display area, individual letters, or logo. Backlighting is permitted and is not considered an internal lit sign by this ordinance, but an indirect lighted sign lit from the rear of the message or surface area.

(c) "Banner." A sign made of fabric or non-rigid material.

(d) "Billboard." Any off-premises sign in excess of one hundred (100) square feet.

(e) "Cabinet sign." A cabinet sign, also known as a box sign, is a sign with text or symbols printed on plastic or acrylic sheet that is mounted on a cabinet or box that houses or does not house a lighting source and associated equipment.

(f) "Changeable copy sign." A sign which by manual or mechanical means or by lighting effects can have its copy message changed, apart from any reworking of the sign.

(g) "Digital billboard." A digital billboard is an off-premises billboard sign in excess of one hundred (100) square feet that is digital in nature and uses LCD, LED, or similar electronic technology for providing content to the billboard.

(h) "Directory sign." A directory sign is one which directs and guides traffic on private property.

(i) "Electronic Message Center (EMC) sign." A type of changeable copy sign that uses a bank of lights or other lighting technology that can be electronically altered to form words, letters, figures, symbols, pictures or patterns to convey a message without altering the sign face. An EMC sign shall only be used as a marquee or message center on-premises business sign and shall be attached to a pylon, monument or wall sign.

(j) "Freestanding sign." A sign erected on a freestanding frame, mast or pole, and not attached to any building.

(k) "Internally illuminated sign." Any sign designed to provide artificial light either through exposed lighting on the sign face or through transparent or translucent material from a light source within the sign.

(l) "Landmark sign." A sign that exemplifies the cultural, architectural or commercial identity of the City of Maryville, is iconic in its location, and contributes to the character of the surrounding area.

(m) "Marquee sign." A wall sign mounted on a permanent roof-like projection over the entry to an establishment, with or without changeable copy.

(n "Monument sign." A freestanding sign sitting directly on the ground or mounted on a low base.

(o) "Mural." A picture or representation painted on a wall of a structure.

(p) "Nonconforming sign." Any sign which was lawfully erected and maintained prior to such time as it was subject to a sign ordinance and which now fails to conform to the present sign ordinance.

(q) "Off-premises sign." A sign or structure which advertises a business, product or service not on or offered on the premises on which subject sign is located, or a sign or structure which identifies an organization not located on the premises on which subject sign is located.

(r) "On-premises sign." A sign or structure which advertises a business, product or service on or offered on the premises on which subject sign is located, or a sign or structure which identifies an organization located on the premises on which subject sign is located.

(s) "Parapet or parapet wall." The portion of a building wall that rises above the roof level.

(t) "Pennant." A piece of plastic or cloth, pointed at the bottom and suspended at its top, and primarily used as an attention-getting device.

(u) "Permit." An authorization by the City of Maryville of a particular act or activity. A permit is required for the erection, relocation, or other alteration of a sign.

(v) "Perpendicular sign." A perpendicular sign is a type of projecting sign mounted on a building facade or attached to a surface perpendicular to the normal flow of traffic either vehicular or pedestrian.

(w) "Placard." A card generally used for advertising a product or service.

(x) "Product sign. A sign which displays petroleum product prices. Such sign is considered a changeable copy sign.

(y) "Propeller." A device of two (2) or more blades on a revolving hub used as an advertising device.

(z) "Right-of-way width." The particular distance across a public street or other right-of-way, usually measured from property line to property line.

(aa) "Sign." Any letter, figure, design, symbol, trademark or device mounted or otherwise placed and intended to be visible from the outside of a building, for display as an advertisement, announcement, notice, or name.

(bb) "Sign height." The vertical dimension from ground level at the base of the structure to the uppermost point of the sign.

(cc) "Sign setback." The linear distance measured horizontally in feet from the property line or public right-of-way to the nearest edge of a sign.

(dd) "Streamer." Any long, narrow, flowing strip primarily used as an attention-getting device.

(ee) "Street frontage." The linear distance measured horizontally along that portion of a property adjacent to a street.

(ff) "Temporary sign." A sign that is used in the connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period of time. If a sign display area is permanent but the message displayed is to be subject to periodic changes, that sign shall not be regarded as temporary.

(gg) "Wall sign." Any sign erected parallel to the face or on the outside wall of any building and supported throughout its entire length by such wall where the edges of the sign do not project more than twelve inches (12") therefrom.

(3) Permit required for signs. Except signs excluded from regulation or signs not requiring a permit, no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered except in accordance with the provisions of this section.

(a) Sign permit applications and sign permits shall be in accordance with § 14-204.

(b) In the case of a lot occupied or intended to be occupied by multiple business enterprises (e.g., a shopping center), a master sign plan is required. Sign permits will be issued in the name of the individual business enterprise requesting a particular sign. Signage allocation per each business enterprise will be determined based on the amount of store frontage (business to business).

(c) Signs constructed in Maryville shall conform to the standards and specifications outlined in the *International Building Code*, as amended, in the edition most recently otherwise adopted by the city.

(d) The sign permit application fee shall be ten dollars ($10.00), and sign permit fees shall be one dollar ($1.00) per square foot beyond what is allowed without a permit.

(e) Replacement or modification of existing freestanding sign panels or signs attached to a building, such as cabinet signage, will not be charged a sign permit fee of one dollar ($1.00) per square foot beyond what is allowed without a permit, nor the sign permit application fee of ten dollars ($10.00), so long as the replacement or modified sign does not alter the square footage of the previous sign panel. Sign permit applications and sign permits for any replacement or modifications of existing freestanding signs and signs attached to a building will still be required.

(f) Where work for which a permit is required by this section is started or proceeds prior to obtaining said permit, the penalty shall be two hundred fifty dollars ($250.00), but the payment of such penalty shall not relieve any persons from fully complying with the requirements of this section nor from other penalties.

(4) Signs not requiring a permit. The following signs do not require a permit. (a) Signs not exceeding six (6) square feet in a residential zoning district, the Office Transition District, Institutional District, and the Neighborhood District; or not exceeding nine (9) square feet in a downtown district (excluding the Office Transition District), Central Community District, the Office District; or sixteen (16) square feet in the Business and Transportation District, the High Commercial District, the High Intensity Retail District and the Industrial District.

(b) Signs erected by or on behalf of, or pursuant to, the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.

(c) Official signs of a non-commercial nature erected by public utilities.

(d) Flags, pennants, or insignia of any government.

(e) Integral, decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, or moving parts.

(f) Directory signs.

(g) Signs painted on, or otherwise permanently attached to, currently licensed motor vehicles that are not primarily used as signs.

(5) Temporary signs. (a) Temporary signs shall be regarded and treated in all respects as permanent signs. Except in Residential Zoning Districts temporary signs shall not be included in calculating the total

amount of permitted sign area. The duration of temporary signage shall not cumulatively exceed six (6) weeks.

(b) One (1) additional sign not to exceed thirty-two (32) square feet in surface area shall be permitted on lots with an approved fireworks storage and retail sale permit during the times allotted for such sales in title 7, chapter 6 of the Maryville Municipal Code. This additional temporary sign shall not count towards the cumulative six (6) week duration.

(c) Applications for temporary sign permits are required and shall be issued by the development services office. Temporary signs or banners that are erected without a temporary sign permit shall be subject to the enforcement of applicable penalties outlined in this section.

(6) Determining the number of signs. (a) For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.

(b) A two (2) sided or multi-sided sign shall be regarded as one (1) sign so long as:

(i) With respect to a V-type sign, the two (2) sides are at no point separated by a distance that exceeds five feet (5'); and

(ii) With respect to double-faced (back-to-back) signs, the distance between the backs of each face of the sign does not exceed three feet (3').

(7) Computation of sign area. (a) The surface area of a sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more than eight (8) straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.

(b) If the sign consists of more than one (1) section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.

(c) With respect to two (2) sided, multi-sided, or three (3) dimensional signs, the sign surface area shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one (1) time by a person from one (1) vantage point. Without otherwise limiting the generality of the foregoing:

(i) The sign surface area of a double-faced, back-to-back sign shall be calculated by using the area of only one (1) side of

such sign, so long as the distance between the backs of such signs does not exceed eighteen inches (18").

(ii) The sign surface area of a double-faced sign constructed in the form of a "V" shall be calculated by using the area of only one (1) side of such sign (the larger side if there is a size difference), so long as the angle of the "V" does not exceed thirty (30) degrees and at no point does the distance between the backs of such sides exceed five feet (5').

(8) Total sign surface area for all signs. (a) Unless otherwise provided in this section, the total surface area devoted to all signs on any lot shall not exceed the limitations set forth in this section, and all signs except temporary signs shall be included in this calculation.

(b) Unless otherwise provided in this section, the maximum, permanent sign surface area permitted on any lot in any residential district is four (4) square feet.

(c) Subject to the other provisions of this section, the maximum sign surface area permitted on any lot in a commercial land use, other than the Business and Transportation District or the Industrial Zone District, shall be determined as follows:

(i) There may be not more than one-half (1/2) square feet of sign surface area per linear foot of lot street frontage up to two hundred feet (200') of frontage.

(ii) There may be up to three quarters (3/4) square feet of additional sign surface area per linear foot of lot street frontage in excess of two hundred feet (200').

(d) Subject to the other provisions of this section, the maximum sign surface area on any lot in the Business and Transportation District or the Industrial District shall be determined by multiplying the number of linear feet of street frontage of the lot by one foot (1').

(e) Whenever a lot is situated such that it has no street frontage on any lot boundary and an applicant desires to install on such a lot a sign that is oriented toward a street, then the total sign surface area permitted on that lot shall be sign surface area that would be allowed if the lot boundary closest to the street toward which such sign is to be oriented fronted on such street. The applicant shall be restricted to using only one (1) street and the closest lot boundary to this street for determining the total permitted sign surface area.

(f) The sign surface area of any sign located on a wall of a structure may not exceed one-third (1/3) or thirty-three percent (33%) of the total surface area of the wall on which the sign is located. If a wall painting is depicted with any advertisement (i.e., business name) then a sign permit shall be issued and such a wall painting will be considered as part of the overall signage for that particular development.

(g) The surface area for a marquee or changeable copy sign may not exceed twenty (20) square feet (thirty (30) square feet in the High Intensity Retail and Institutional Zoning Districts). The area of this type of sign does not count against the calculated total sign area for a given property. Only one (1) such sign per development will be allowed.

(h) An Electronic Message Center (EMC) sign is a type of electronically changeable copy sign. For EMC signs see § 14-217(13)(g).

(i) In the case of the retail sale of gasoline, diesel, kerosene, and oil, a product (price) sign may be installed on the freestanding sign or on the building itself. The product sign surface area may not exceed twenty-five (25) square feet. If the product sign is installed on the freestanding sign, a changeable copy sign may not be installed on the same freestanding sign. There shall be only one (1) product sign per individual lot or development. The product sign may not be installed as a separate freestanding sign nor may it be installed as a portable sign.

(j) The sign surface area for a perpendicular sign shall not exceed six (6) square feet in surface area. Each separate tenant space with their own separate entrance shall be allowed one (1) perpendicular sign. One (1) entrance serving more than one (1) tenant space will also be allowed one (1) perpendicular sign at the door entrance.

(9) Freestanding sign surface area. (a) For purposes of this section, a side of a freestanding sign is any plane or flat surface included in the calculation of the total sign surface area. For example, wall signs typically have one (1) side. Freestanding signs typically have two (2) sides (back-to-back), although four (4) sided and other multi-sided signs are also common.

(b) In no case may a single side of a freestanding sign exceed fifty (50) square feet in surface area if the lot on which the sign is located has less than two hundred feet (200') of frontage on the street toward which the sign is primarily oriented, seventy-five (75) square feet on lots with two hundred feet (200') of frontage or more, but less than four hundred feet (400') of frontage, and one hundred (100) square feet on lots with four hundred feet (400') or more of frontage.

(c) In the Central Community District, no freestanding sign shall exceed one hundred (100) square feet in surface area.

(d) With respect to freestanding signs that have no discernible sides, such as spheres or other shapes not composed of flat planes, no such freestanding sign may exceed the maximum total surface area allowed for double-sided, freestanding sign.

(e) In the Parkway District, no freestanding sign shall exceed seventy-five (75) square feet in surface area on lots with two hundred (200') feet or more of frontage and no more than fifty (50) square feet on lots with less than two hundred feet (200') of frontage.

(f) In the Industrial Zone, no freestanding sign shall exceed one hundred fifty (150) square feet in surface area. The freestanding sign shall be monument type.

(10) Number of freestanding signs. (a) Except as authorized by this section, no development (single or multi-tenant) may have more than one (1) freestanding sign.

(b) If a development is located on a corner lot that has at least one hundred feet (100') of frontage on each of the two (2) intersecting public streets, then the development may have not more than one (1) freestanding sign along each side of the development bordered by such streets.

(c) If a development is located on a lot that is bordered by two (2) public streets that do not intersect at the lot's boundaries (double-front lot), then the development may have not more than one (1) freestanding sign on each side of the development bordered by such streets.

(d) A development that has more than five hundred (500) linear feet of frontage or more, and located within the Parkway District along U.S. Highway 321, may have two (2) freestanding signs if the following provisions are met:

(i) Both signs do not collectively exceed seventy-five (75) square feet;

(ii) Both signs and their support structures do not exceed ten feet (10') in height;

(iii) The two (2) signs are separated by one hundred (100) linear feet as measured from base of sign to base of sign; and

(iv) The property must have two (2) or more businesses on the same parcel.

(11) Subdivision and multi-family development entrance signs. Any entrance to a residential subdivision or multi-family development may have no more than two (2) signs identifying such subdivision or development. A single side of any such sign may not exceed sixteen (16) square feet, nor may the total surface area of all such signs located at a single entrance exceed thirty-two (32) square feet, nor may the sign structure exceed a height of eight feet (8') from ground level.

(12) Location and height. (a) Freestanding ground signs shall observe a minimum setback requirement of ten feet (10') from the property line, and, where feasible, shall observe the setback requirements of this section.

(b) No sign may extend above any parapet or be placed, erected or constructed upon any roof surface with the exception of canopies and roof surfaces with an angle of more than seventy-five (75) degrees measured from the horizontal. Any roof surface with an angle less than seventy-five (75) degrees from horizontal, individual letters may be installed on the roof surface provided the size requirements for the zoning

district is met. The individual letters must be installed flush with the roof surface and not bounded by any type framework or additional flat surface such as a background.

(c) No sign attached to a building may project more than twelve inches (12") from the building wall.

(d) (i) No sign or supporting structure may be located in or over any public right-of-way except as authorized by this ordinance. Exception: Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, traffic, directional, or regulatory signs may be erected or installed over public sidewalks.

(ii) Perpendicular signs may also be installed in or over public sidewalks as long as the height of the perpendicular sign is a minimum of eight feet (8') or more above the grade of the sidewalk and it does not extend into or occupy more than two-thirds (2/3) the width of the sidewalk as outlined in the *International Building Code*.

(e) No part of a freestanding ground sign may exceed a height, measured from ground level, of twenty feet (20').

(f) Directory signs may not exceed four (4) square feet in size, be no more than three feet (3') in height, and do not have to meet the required ten feet (10') setback from the right-of-way and/or property line.

(13) Sign illumination and signs containing lights. (a) Unless otherwise prohibited by this section, signs may be illuminated in accordance with this section.

(i) Perpendicular signs may only be indirectly illuminated.

(b) No sign within one hundred fifty feet (150') of a residential use may be illuminated between the hours of 12:00 A.M. midnight and 6:00 A.M., unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential.

(c) Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises. String lighting or backlighting techniques in accordance with the definition found in § 14-217(2) may be used for backlighting and is permitted as an indirect/external lighting method and may be used for permanent signage.

(d) Internally illuminated freestanding signs may not be illuminated during hours that the business or enterprise advertised by such sign is not open for business and/or operation. This subsection shall not apply to the following types of signs:

(i) Signs that constitute an integral part of a vending machine, telephone booth, device that indicates time, date, or weather conditions, or similar device whose principal function is not to convey an advertising message; and

(ii) Signs that do not exceed two (2) square feet in area and that convey the message that a business or enterprise is open or closed.

String lighting or backlighting techniques in accordance with the definition found in § 14-217(2) may be used for backlighting and is permitted as an indirect/external lighting method and may be used for permanent signage.

(e) Neon and bare fluorescent light tubes in any form on the exterior of any building or any other structure is prohibited.

(f) No sign may contain or be illuminated by flashing or intermittent lights or lights of changing intensity. Typical "time and temperature" displays are exempt from this requirement.

(g) Electronic Message Center (EMC) signs permitted as changeable copy on-premises business signs shall be allowed subject to the following standards:

(i) EMC signs are allowed in the Business and Transportation High Intensity Retail and Institutional Zoning Districts; as well as in the Central Community Zoning District if located along an arterial roadway as designated on the most recent City of Maryville Major Road Plan; and EMC signs may also be located at public schools and the Blount County Public Library in any zoning district as long as they conform to the EMC sign standards herein.

(ii) EMC signs shall be limited to one (1) display per development, regardless of the number of tenants or owners within the project.

(iii) The maximum size of an EMC sign display area shall be twenty (20) square feet in the Business and Transportation and Central Community Zoning Districts, and for EMC signs used by public schools and the public library; and thirty (30) square feet in the High Intensity Retail and Institutional Zoning Districts.

(iv) The area of an EMC sign does not count against the calculated total sign area for a given property.

(v) EMC signs must hold a constant message for a minimum of sixty (60) seconds. Messages on an EMC sign cannot scroll, be animated, contain moving video images, etc.

(vi) EMC signs must be located at least one hundred feet (100') from a residential structure, measured on a straight line from the nearest point on the sign face to the nearest point of the residence.

(h) Any illuminated freestanding sign erected within the corporate limits of Maryville must be installed in accordance with the *National Electric Codes* and must have a disconnect either installed on or be within sight of such sign and of no more than fifty feet (50') from such sign.

(14) Miscellaneous restrictions and prohibitions. (a) As provided in the table of permissible uses, no off-premises signs (except those exempted from regulations or from permit requirements) may be located in any district.

(b) No sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

(c) Signs that revolve, rotate, or are animated or utilize movement or apparent movement to attract the attention of the public are prohibited. Unless their movement:

(i) Is not a primary design feature of the sign; and

(ii) Is not intended to attract attention to the sign.

The restriction of this subsection shall not apply to signs indicating the time, date, or weather conditions.

(d) No sign may be erected so that by its location, color, size, shape, nature, or message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.

(e) Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.

(f) No signs are allowed which are written upon, temporarily or permanently placed upon or attached to a motor vehicle or trailer, which advertise the price of any product or service, or advertise special business events or sales. This provision prohibits the use of an automobile, truck or trailer for on-premises or off-premises advertising. This restriction shall not be construed to prohibit signs on vehicles which carry a firm name, telephone number, address of business, major enterprise, principle products, or service.

(g) No signs shall be allowed on any telecommunication tower or antenna.

(h) Streamers are prohibited.

(i) Animated signs are prohibited.

(j) Pennants are prohibited.

(k) Propellers are prohibited in relation to signs or attention seeking devices.

(l) Off-premises signs, including billboards, are prohibited. However, existing billboards that are grandfathered under state law as

pre-existing, nonconforming uses may be replaced with digital billboards of the same or lesser size.

(m) No signs are allowed to exist in the median or right-of-way of any roadway. The city may immediately, and without prior notice, remove a sign erected, placed or maintained in whole or in part on public right-of-way if the sign is not authorized by state law or under the terms of this section. Removed signs will be stored at a City of Maryville facility pending disposal or returned to the rightful owner. The city will exercise ordinary care with such signs while in its possession. If the city removes a sign and the name and address of the owner is reasonably ascertainable, the city will notify the owner about the sign's removal within three (3) working days of the date of the removal and provide the owner information regarding retrieval of the sign. "Reasonably ascertainable" means that the name and mailing address of the owner are displayed on the sign, or a name is displayed on the sign from which the city can readily identify the name and address of the owner. The owner must pay removal costs in order to retrieve a removed sign. The owner will remit the removal cost by cash, cashier's check or money order with ten (10) days from the date of the removal of the sign in order to retrieve the sign. If the owner fails to timely remit the removal costs, the sign will be considered abandoned and may be discarded and disposed of by the city on or after the eleventh day from the date of removal. Any sign owner may declare ownership of a sign at any time between removal and prior disposal.

(n) Banners are prohibited in the City of Maryville except as permitted temporary signs.

(o) Placards are prohibited in the City of Maryville except as permitted temporary signs.

(p) Air inflated displays, including air powered displays, are prohibited at all business and commercial locations. This prohibition does not apply to residential type uses or locations, use on floats for a parade where a permit has been issued by the city or at recreational, festival or authorized events by the city or sponsored by the city.

(15) Maintenance of signs. (a) All signs and all components thereof including, without limitation, supports, braces, and anchors, shall be kept in a state of good repair.

(b) If the message portion of a sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within thirty (30) days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to alter the prohibition on the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent changing a sign.

(c) The area within ten feet (10') of any part of a freestanding sign shall be kept clear of all debris and all undergrowth more than five inches (5") in height.

(d) The sign inspector as designated by the city manager shall notify in writing the owner of the sign if the sign is need of maintenance or repair.

(16) Unlawful cutting of trees or shrubs. No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

(a) Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the City of Maryville;

(b) On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located; or

(c) In any area where such trees or shrubs are required to remain.

(17) Nonconforming signs. (a) Subject to the remaining restrictions of this section, signs that were otherwise lawful on the effective date of this section may be continued only pursuant to rights granted under state law and as provided herein.

(b) No person may increase the extent of nonconformity of a nonconforming sign. No nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.

(c) A nonconforming sign may not be moved, replaced, or altered except to bring the sign into complete conformity with this section. This subsection shall not apply to digital billboards which are regulated separately.

(d) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this section, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is "destroyed" if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value as listed for tax purposes) of the sign so damaged.

(e) The message of a nonconforming sign may be changed so long as this does not create any new nonconformity (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).

(f) Subject to the other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work does

not exceed, within any twelve (12) month period, fifty percent (50%) of the value of such sign. This subsection shall not apply to digital billboards which are regulated separately.

(g) If a nonconforming sign, other than a billboard, advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within thirty (30) days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

(h) If a nonconforming billboard remains blank for a continuous period of one hundred eighty (180) days, that billboard shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this section or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this section, a sign is "blank" if:

(i) It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted;

(ii) The advertising message it displays becomes illegible in whole or substantial part; or

(iii) The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed.

(18) Enforcement of sign regulations. The sign inspector as designated by the City Manager of the City of Maryville shall be responsible for the enforcement of these regulations, including the issuance of permits, as required, for construction and placement of signs.

(19) Digital billboards. Billboards that are existing in the City of Maryville which are grandfathered under state law as pre-existing, nonconforming uses may be replaced at the same location with digital billboards of the same or lesser size. Digital billboards are otherwise prohibited in the City of Maryville. Such digital billboards shall be subject to the following rules and regulations:

(a) The message display shall remain static and fixed for a minimum of eight (8) seconds with a maximum transition time of one (1) second to the next message. Transitions shall not be scrolling, but shall be instantaneous.

(b) Video, continuous scrolling messages, and animation are prohibited.

(c) The minimum spacing is two thousand feet (2,000') between digital billboards measured billboard to billboard on the same side of the street.

(d) No person shall erect, operate, use or maintain a digital billboard without first obtaining and annually renewing a sign permit with the City of Maryville.

(e) Digital billboards must be single-faced with one (1) display area.

(f) Digital billboards must be located at least one hundred feet (100') from any residentially zoned property measured from the closest point of any structural element of the billboard to the residential property line.

(g) Displays on digital billboards cannot have varying light illumination and/or intensity, blinking, bursting, dissolving, distorting, fading, flashing, oscillating, rotating, scrolling, sequencing, shimmering, sparkling, traveling, tracing, twinkling or simulated movement or convey the illusion of movement other than the change of the entire copy of the sign message at one (1) time.

(h) No smoke, steam, or noise shall emanate from the digital billboard.

(i) The light intensity of a digital billboard shall have a monitor to allow it to automatically adjust for natural ambient light conditions.

(j) Owners of digital billboard will coordinate with the City of Maryville to convey real time emergency information such as Amber Alerts or National Disaster Directives.

(k) A digital billboard shall be at the same or lesser height as the billboard it replaces.

(l) A digital billboard shall be stationary and not contain any visible moving parts.

(m) Using industry standards, daytime brightness levels shall be no more than ninety percent (90%) maximum intensity. At night the brightness shall be reduced to no more than twenty percent (20%) of maximum light intensity for an LED (Light Emitting Diode) sign.

(n) Digital billboards shall conform to the standards and specifications outlined in the current adopted building code as amended in the edition most recently adopted by the city.

(o) Digital billboards shall not be lit externally.

(p) Digital billboards can only be placed in the city's High Intensity Retail Zone.

(20) Landmark signage. The Maryville City Council may, by resolution, designate certain existing signs as landmark signs. Upon such a designation, the following will apply:

(a) The sign may be restored and repaired to its original condition.

(b) In restoring or repairing landmark signs, the same color scheme and materials shall be used to an extent practicable in order to replicate the original condition of the sign.

(c) A designated landmark sign shall not count towards any applicable maximum sign allowances.

(d) Restoration or repair of the sign shall not be expanded beyond the original sign area nor shall such sign be lighted.

(e) A sign permit for repair and restoration of a landmark sign is required.

(f) At such time a landmark sign is removed or destroyed by purposeful intent of the property owner, agent or lessee, the landmark designation of such sign shall be rendered null and void. The Maryville City Council may also remove the landmark sign designation upon determination that the sign no longer meets the definition for a landmark sign. (1999 Code, § 14-218, as amended by Ord. #2019-27, Dec. 2019, Ord. #2021-13, April 2021, and Ord. #2022-02, Jan. 2022, modified, as amended by Ord. #2024-02, Feb. 2024)

14-218. Parking. (1) Definitions. Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined below shall have the meaning indicated when used in this section.

(a) "Circulation area." The portion of the vehicle movement area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

(b) "Driveway." The portion of the vehicle movement area that consists of a travel lane bounded on either side by an area that is not part of the vehicle movement area.

(c) "Gross floor area." The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

(d) "Loading and unloading area." The portion of the vehicle movement area used to satisfy the requirements of subsection (11) below.

(e) "Long-term parking." The continuous use of parking space in a designated parking area for five (5) days or longer within the city's Industrial Zoning District. "Long-term parking" is not associated with off-street parking requirements for industrial uses, businesses, or commercial operations within the industrial zoning district, but rather for specific parking and storage areas for motorized vehicles, motor homes, boats, trailers, etc. where owners of the referenced vehicles pay rental fees for the ability to store and park said vehicles.

(f) "Parking area aisles." The portion of the vehicle movement area consisting of lanes providing access to parking spaces.

(g) "Parking space." A portion of the vehicle movement area set aside for the parking of one (1) vehicle.

(h) "Pug mix." A mixture of various sizes of crushed stone aggregate material commonly used as a base layer for paving. Other

material such as water or cement may be added to the various mixture of aggregate to enhance compaction of the finished product.

(i) "Vehicle movement area." The portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas (spaces and aisles).

(2) Number of parking spaces required. (a) All developments in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question. The parking requirements for uses may be provided by individual action for a use, by joint action for all the uses of a lot, by joint project of adjacent lots for all the uses of those lots, by joint action for some or all the uses of an Impact Overlay District, or by public parking program carried out by special assessment district or otherwise.

(b) The presumptions established by this section are that:

(i) A development must comply with the parking standards set forth in subsection (e) below to satisfy the requirement stated in subsection (a) above; and

(ii) Any development that does meet these standards is in compliance. However, the table of parking requirements is only intended to establish a presumption and should be flexibly administered, as provided in subsection (3) below.

(c) Uses in the table of parking requirements (subsection (e) below), are based on the table of permissible uses (following pages). When determination of the number of parking spaces required by this table results in a requirement of a fractional space, any fraction of one-half (1/2) or less may be disregarded, while a fraction in excess of one-half (1/2) shall be counted as one (1) parking space.

(d) The council recognizes that the table of parking requirements set forth in subsection (e) below cannot, and does not, cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority is authorized to determine the parking requirement using this table as a guide.

(e) Satellite parking facilities in residential zones shall be subject to the special exception process but shall also consider the following criteria:

(i) That satellite parking shall be located so that it will adequately serve the intended uses;

(ii) Ease of pedestrian access;

(iii) Satellite parking shall serve a unique facility in the residential zone; and

(iv) Off-site parking lots in residential zones shall be owned by the facility served.

Table of Parking Requirements

USE	PARKING REQUIREMENT
Single-family detached, one dwelling unit per lot	Two spaces per dwelling unit plus one space per room rented out
Single-family detached, more than one dwelling per unit	Two spaces for each dwelling unit, except that one-bedroom units require only one space
Multi-family residences	With respect to multi-family units located in buildings where each dwelling unit has an entrance and a living space on the ground floor, the requirement shall be one and one half spaces for each one-bedroom unit and two spaces for each unit with two or more bedrooms
Residences for elderly and/or handicapped	Multi-family units limited to persons of low- or moderate- income or the elderly require only one space per unit. All other multi-family units require one space for each bedroom in each unit plus one additional space for every four units in the development
Homes emphasizing special services, treatment or supervision	Three spaces for every five beds except for uses exclusively serving children under sixteen, in which case one space for every three beds shall be required.
Tourist homes and hotels or motels	One space for each room to be rented plus additional space (in accordance with other sections of this table) for restaurant or other facilities
Home occupations	Four spaces for offices of physicians or dentists; two spaces for attorneys, one space for all others
Sales or rentals of goods, merchandise, or equipment-miscellaneous (not storage or display of goods outside fully enclosed building)	One space per two hundred feet (200') of gross floor area
Convenience stores	One space per two hundred feet (200') of gross floor area

USE	PARKING REQUIREMENT
Wholesale sales	One space per four hundred (400) square feet of gross floor area
Retail and wholesale sales (outside storage, display of goods)	One space per two hundred (200) square feet of gross floor area
Wholesale sales and retail with low-volume traffic generation	One space per four hundred (400) square feet of gross floor area
Retail and wholesale sales (outside storage, display of goods)	One space per two hundred (200) square foot of gross floor area
Wholesale sales and retail with low-volume traffic generation	One space per four hundred (400) square feet of gross floor area
Office, clerical, research, service uses: -primarily on-premises services (attorneys, physicians and other professions)	One space per two hundred (200) square feet of gross floor area
-services with little or no customer or client traffic; primarily employee traffic	One space per four hundred (400) square feet of gross floor area
-medical, dental clinics with less than ten thousand (10,000) square feet of gross floor area	One space per one hundred fifty (150) square feet of gross floor area
Banks with drive-in service	One space per two hundred (200) square feet of area within main building plus reservoirs and capacity equal to five (5) spaces per window (ten (10) spaces if window serves two stations)
Enclosed manufacturing, processing, assembling, repairing; mainly walk-in trade	One space per four hundred (400) square feet of gross floor area
Enclosed manufacturing, processing, repairing, assembling with little or no walk-in trade	One space for every two employees on the maximum shift except that, if permissible in the commercial districts, such uses may provide one space per two hundred (200) square feet of gross floor area

USE	PARKING REQUIREMENT
Schools	1.75 spaces per classroom in elementary schools, five spaces per classroom in high schools
Trade or vocational schools	One space per one hundred (100) square feet of gross floor area
Colleges, universities	One space per one hundred fifty (150) square feet of gross floor area
Churches, synagogues, temples	One space for every four seats in the portion of the church building to be used for services plus spaces for any residential use as determined in accordance with the parking requirements set forth above for residential uses, plus one space for every two hundred (200) square feet of gross floor area designed to be used neither for services nor residential purposes
Libraries, art galleries, museums, social and fraternal clubs	One space per three hundred (300) square feet of gross floor area
Indoor recreational facilities	One space for every three persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion; example: tennis courts or bowling alleys) plus one space per two hundred (200) square feet of gross floor area used in a manner not susceptible to such calculation
Movie theaters, stadiums, coliseums	One space per every four seats
Outdoor recreational facilities, public and private	One space per two hundred (200) square feet of area within enclosed buildings, plus one space for every three persons that the outdoor facilities are designed to accommodate when used to the maximum capacity

USE	PARKING REQUIREMENT
Golf driving ranges and similar recreational uses	Miniature golf course, skateboard park, water slide, and similar uses - one space per three hundred (300) square feet of area plus one space per two hundred (200) square feet of building gross floor area; driving range - one space per tee plus one space per two hundred (200) square feet in building gross floor area; par three course - two spaces per golf hole plus one space per two hundred (200) square feet of building gross floor area
Stables	One space per horse that could be kept at the stable when occupied to maximum capacity
Hospitals, clinics, medical treatment facilities	Two spaces per bed or one space for one hundred fifty (150) square feet of gross floor area, which ever is greater
Institutions for nursing care, intermediate care, handicapped or infirm care, child care	Three spaces for every five beds. Multi-family units developed or sponsored by public or non-profit agency for limited income families or the elderly require only one space per unit
Institutions for mentally ill and correctional facilities	One space for every two employees on maximum shift
Restaurants, entertainment (no substantial carry-out or delivery; no drive-in service)	One space per one hundred (100) square feet of gross floor area
Restaurants, entertainment with carry-out or delivery and/or outside service, consumption	One space per one hundred (100) square feet of gross floor area plus one space for every four outside seats
Restaurants, entertainment with carry-out or delivery and/or outside service, consumption and drive-in service	Restaurants, entertainment with carry out or delivery and/or outside service, consumption and drive-in service
Motor vehicle-related sales and service	One space per two hundred (200) square feet of gross floor area

USE	PARKING REQUIREMENT
Gas sales	One space per two hundred (200) square feet of gross floor area of building devoted primarily to gas sales operation, plus sufficient parking area to accommodate vehicles at pumps without interfering with other parking spaces
Car wash	Conveyor type - one space for every three employees on the maximum shift plus reservoir capacity equal to five times the capacity of the washing operations. Self service type - two spaces for drying and cleaning purposes per stall plus two reservoir spaces in front of each stall
Goods storage (no sales on premises)	One space for every two employees on the maximum shift but not less than one space per five thousand (5,000) square feet of area devoted to storage (whether inside or outside)
Scrap materials salvage yards, junk yards	One space per two hundred feet (200') of gross floor area
Veterinarian, kennels	One space per two hundred (200) square feet of floor area
Emergency services	One space per two hundred (200) square feet of gross floor area
Agricultural, silvicultural, mining, quarrying operations	One space for every two employees on maximum shift
Post office	One space per two hundred (200) square feet of gross floor area
Sanitary landfill	One space for every two employees on maximum shift
Military reserve, national guard centers	One space per one hundred (100) square feet of gross floor area
Dry cleaner, laundromat	One space per two hundred (200) square feet of gross floor area

USE	PARKING REQUIREMENT
Open air markets and horticultural sales	One space per one thousand (1,000) square feet of lot area used for storage, display, or sales
Funeral home	One space per one hundred (100) square feet of gross floor area
Nursery school; day care centers	One space per employee plus one space per two hundred (200) square feet of gross floor area
Bus station	One space per two hundred (200) square feet of gross floor area
Commercial greenhouse	One space per two hundred (200) square feet of gross floor area

(3) Flexibility in administration required. (a) The council recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in subsection (2)(e) above may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in subsection (2) above, the permit-issuing authority may permit deviations from the presumptive requirements of subsection (2)(e) above and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in subsection (2)(a) above.

(b) Without limiting the generality of the foregoing, the permit-issuing authority may allow deviations from the parking requirements set forth in subsection (2)(e) above when it finds that:

(i) A residential development is irrevocably oriented toward the elderly; or

(ii) A business is primarily oriented to walk-in trade.

(c) Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in subsection (2)(e) above, it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

(d) If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development

proposal, that the presumption established by subsection (2)(e) for a particular use classification is erroneous, it shall initiate a request for an amendment to the table of parking requirements in accordance with the procedures set forth in § 14-218.

(4) Parking space dimensions. (a) Subject to subsections (b) and (c) below, each parking space shall contain a rectangular area at least nineteen feet (19') long and nine feet (9') wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces created contain within them the rectangular area required by this section.

(b) In the parking areas containing ten (10) or more parking spaces, up to fifteen percent (15%) of the parking spaces need to contain a rectangular area of only seven and one-half feet (7-1/2') in width by fifteen feet (15') in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.

(c) Whenever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty-two feet by nine feet (22' x 9').

(5) Required widths of parking area aisles and driveways. (a) Parking area aisle widths shall conform to the following table which varies the width requirement according to the angle of parking.

PARKING ANGLE

Aisle Width	0	30	45	60	90
One-way traffic	13	11	13	18	24
Two-way traffic	19	20	21	23	24

(b) Driveways shall be not less than ten feet (10') in width for one-way traffic and eighteen feet (18') in width for two-way traffic, except that ten feet (10') wide driveways are permissible for two-way traffic when:

(i) The driveway is not longer than fifty feet (50');

(ii) It provides access to not more than six (6) spaces; and

(iii) Sufficient turning space is provided so that the vehicles need not back into a public street.

(6) General design requirements. (a) Unless no other practicable alternative is available, vehicle movement areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one (1) or two (2) dwelling units, although backing onto arterial streets is discouraged.

(b) Vehicle movement areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles

can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements. Every vehicle movement area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

(c) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

(d) Parking requirements for the Office District shall be in accordance with all other sections of this section and the site plan review process and when possible vehicle movement areas and parking spaces shall be located to the rear of the structures.

(e) Parking requirements for the Neighborhood District shall be in accordance with all other subsections of this section and the site plan review process.

(7) Vehicle movement area surfaces. (a) Vehicle movement areas that:

(i) Include lanes for drive-in windows; or

(ii) Contain parking areas that are required to have more than five (5) parking spaces and that are used regularly at least five (5) days per week shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust. Specifications for surfaces meeting the standards set forth in this subsection shall be in accordance with those requirements outlined by the city director of engineering and public works.

Long-term parking spaces and areas within the industrial zoning district may use pug mix for the permanent surface. A mixture such as TDOT specifications 303.01 "Mineral Aggregate Grading D" is acceptable for the graded surface material. The graduation of stone sizes is listed in table 903.05 of the TDOT Standard Specification for Road and Bridge Construction (2006). This specification of graduation of stone listed in table 903.05 of the TDOT construction manual may also be used under or within permanent shelters, garages, storage buildings, or three (3) sided structures. Specifications for the surface material set forth in this subsection shall be submitted to the city director of engineering and public works for review. The access and circulation aisles serving the long-term parking spaces shall meet the standard paving requirements of this section. Access and circulation aisles shall be constructed of asphalt, concrete, or other such materials to protect against potholes, erosion and dust.

(b) Vehicle movement areas that are not provided with the type of surface specified in subsection (a) above shall be graded and surfaced with crushed stone, gravel or other suitable material as set forth by the city director of engineering and public works to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar material. In addition, whenever such a vehicle movement area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle movement area that opens onto such street), shall be paved as provided in subsection (a) above for a distance of fifteen feet (15') back from the edge of the paved street. This subsection shall not apply to single-family or two (2) family residences or other uses that are required to have only one (1) or two (2) parking spaces.

(c) Parking spaces in areas surfaced in accordance with subsection (a) above shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with subsection (b) above shall be demarcated whenever practicable.

(d) Vehicle movement areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle movement area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

(8) Joint use of required parking spaces. (a) One (1) parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one (1) use may not be credited to any other use.

(b) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally ninety percent (90%) vacant on weekends, another development that operates only on weekends could be credited with ninety percent (90%) of the spaces on that lot. Or, if a church parking lot is generally occupied only to fifty percent (50%) of capacity on days of primary use, another development could make use of fifty percent (50%) of the church lot's spaces on those other days.

(c) If the joint use of the same parking spaces by two (2) or more principal uses involves satellite parking spaces, then the provisions of subsection (9) below are also applicable.

(9) Satellite parking. (a) If the number of off-street parking spaces required by this section cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance

with the provisions of this section. These off-site spaces are referred to in this section as satellite parking spaces.

(b) All such satellite parking spaces (except spaces intended for employee use) must be located within four-hundred feet (400') of the lot on which the use associated with such parking is located if the use is not housed within any principal building. Satellite parking spaces intended for employee use may be located within any reasonable distance.

(c) The developer wishing to take advantage of the provisions of this section must present satisfactory written evidence that he has the permission of the owner or other person in charge of the satellite parking spaces to use such spaces. The developer must also sign an acknowledgment that the continuing validity of his permit depends upon his continuing ability to provide the requisite number of parking spaces.

(d) Persons who obtain satellite parking spaces in accordance with this section shall be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this subsection.

(e) Satellite parking facilities in residential zones shall be subject to the special exception process but shall also consider the following criteria:

(i) That satellite parking shall be located so that it will adequately serve the intended uses;

(ii) Ease of pedestrian access; and

(iii) Satellite parking shall serve a unique facility in the residential zone and off-site parking lots in residential zones shall be owned by the facility served.

(10) Special provisions for lots with existing buildings. Notwithstanding any other provisions of this section, whenever:

(a) There exists a lot with one (1) or more structures on it constructed before the effective date of this section;

(b) A changing use that does involve any enlargement of a structure is proposed for such lot; and

(c) The parking requirements of subsection (b) above that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the developer need only comply with the requirements of subsection (b) to the extent that:

(i) Parking space is practicably available on the lot where the development is located; and

(ii) Satellite parking spaces are reasonably available as provided in subsection (9) above. However, if satellite parking subsequently becomes reasonably available, then it shall be a continuing condition of the permit authorizing development on

such lot that the developer obtains satellite parking when it does become available.

(11) Loading and unloading areas. (a) Subject of subsection (e) below, whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.

(b) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standards set forth in this subsection. However, the permit-issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

GROSS LEASEABLE AREA OF BUILDING	**N U M B E R O F SPACES***
1,000 - 19,999	1
20,000 - 79,999	2
80,000 - 127,999	3
128,000 - 191,999	4
192,000 - 255,999	5
256,000 - 329,999	6
320,000 - 391,999	7

NOTE: Plus one (1) space for each additional seventy-two thousand (72,000) square feet or fraction thereof.

*Minimum dimensions of twelve feet by fifty-five feet (12' x 55') and overhead clearance of fourteen feet (14') from street grade required.

(c) Loading and unloading areas shall be so located and designed that the vehicles intended to use them can:

(i) Maneuver safely and conveniently to and from a public right-of-way; and

(ii) Complete the loading and unloading operations without obstructing or interfering with public right-of-way or any parking space or parking lot aisle.

(d) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

(e) Whenever:

(i) There exists a lot with one (1) or more structures on it constructed before the effective date of this section;

(ii) A changing use that does not involve any enlargement of a structure is proposed for such lot; and

(iii) The loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this section to the extent reasonably possible. (1999 Code, § 14-219)

14-219. Amendments. (1) Initiation of amendments. (a) The city may initiate an amendment to this chapter.

(b) Any other person may also petition to amend this chapter. The petition shall be filed with the development services office on forms provided by the administrator. The petition shall include, among other information deemed relevant by the administrator:

(i) The name, address, and phone number of the applicant;

(ii) A description of the land affected by the amendment if a change in zoning district classification is proposed; and

(iii) A description of the proposed map change or a summary of the specific objective of any proposed change to the text of this chapter.

(2) Planning commission consideration of proposed amendments. Prior to the final action by city council, a proposed amendment to this chapter shall be submitted to the planning commission for approval or disapproval; provided that if the planning commission votes to disapprove of the amendment, it must receive favorable vote of a majority of the entire membership of city council for approval.

(3) Hearing required; notice. (a) City council shall hold a public hearing prior to the final reading on any amendment to this chapter. The notice of the public hearing shall be published in a newspaper having general circulation within the city at least fifteen (15) days prior to the hearing.

(b) With respect to zoning map amendments, the administrator shall mail written notice of the public hearing to the record owners for tax purposes of all properties whose zoning classification is changed by the proposed amendment. However, such notice shall not be required for the readoption of the zoning map or adoption of a new zoning map for the entire city.

(c) The planning staff shall also take any other action deemed useful or appropriate to give notice of the public hearing on any proposed amendment.

(d) The notice required or authorized by this section shall:

(i) State the date, time and place of the public hearing;

(ii) Summarize the nature and character of the proposed change;

(iii) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;

(iv) State that the full text of the amendment can be obtained from the development services department; and

(v) State that substantial changes in the proposed amendment may be made following the public hearing.

(e) The planning staff shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is the council's intention that no failure to comply with any of the notice provisions (except those set forth in subsection (a) above) shall render any amendment invalid.

(4) Ultimate issue before council on amendments. In deciding whether to adopt a proposed amendment to this chapter, the central issue before the council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the mayor and excluded. In particular, when considering proposed zoning map amendments:

(a) The council shall not consider any representations made by the petitioner that if the change is granted, the rezoned property will be used for only one (1) of the possible range of uses permitted in the requested classification. Rather, the council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

(b) The council shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

(c) The council shall not zone property to a district in conflict with the land use plan and the future land use map without first amending said plan.

(d) The council shall consider the recommendation made by the planning commission. (Ord. #2019-04, March 2019)

14-220. Fees. (1) Planning commission and board of zoning appeals hearings. The following fees shall be collected by the city when an application is submitted and prior to placing the application on the agenda for consideration by the Maryville Municipal Planning Commission or the board of zoning appeals for review of a special exception, variance request, or hearing on a planned unit development, or designation of an Impact Overlay Zone:

Activity	**Fee**
Special exception request	$150.00
Planned unit development	$150.00
Impact Overlay District	$150.00
Variance or any other request to BZA	$150.00
Telecommunications towers and antennas review or cost of review, whichever is greater	$1,000.00
Rezoning requests	$250.00
Requested amendments to zoning or subdivision text	$150.00

(2) Subdivision fees. The following fees shall be collected by the city when an application is submitted and prior to placing it on the agenda for consideration by the Maryville Municipal Planning Commission for a preliminary subdivision plat and/or a final subdivision plat:

Subdivision Plats	**Number of Lots**	**Fee**
Preliminary plat	1-2	$100.00
	3-10	$150.00
	11-30	$300.00
	31-50	$400.00
	Over 50	$500.00
Final plat	1-4	$25.00
	5-30	$100.00+$10.00 per lot
	Over 30	$100.00+$10.00 per lot

(3) Called meetings. Five hundred dollars ($500.00) shall be paid to the city before any called meeting–separate and apart from a regularly scheduled meeting–of the Maryville Municipal Planning Commission or the Maryville Board of Zoning Appeals' consideration of an application for a special exception, variance, administrative hearing, or subdivision of property.

(4) Site plan review fees. (a) All site plans reviewed by the site review team shall be subject to the following fee schedule:

Size of Site (Acres)	**Fee**
0-1	$100.00
1.01 to 10	$150.00
10.01 to 20	$200.00
20.01 to 50	$250.00
50.01 or more	$300.00

(b) Standard single-family detached, attached condominium housing development or any other subdivision development submitted to

the planning commission for subdivision approval will not be subject to the site plan fee. These type developments are subject to the site plan process as outlined in this section and other fee schedules found elsewhere in this section.

(c) Parking lot improvement designs for individual residential or commercial lots which propose, add, or reconfigure ten (10) parking stalls or less will not be subject to the site plan fee. New designs, improvements, or additions of ten (10) parking stalls to an individual site will be subject to site plan process as outlined in this section. The addition of eleven (11) parking stalls or more to a residential or commercial site or tract will be subject to the site plan review fee and the site review process. (1999 Code, § 14-221)

14-221. Fences and vegetation adjacent to roadways. (1) Title, purpose, and scope. This section shall be known as the "Fence Ordinance of the City of Maryville, Tennessee," and may be so cited, and further referenced elsewhere as "fence ordinance" and herein as "the ordinance" or "this section" shall imply the same wording and meaning as the full title. The intent of this section shall be the fair and comprehensive regulation of fences. It is the intent of this section that its interpretation and application assist in the economic development of the city, but without lessening a quality of life which the citizens of Maryville strive to maintain and improve. The regulations as set forth in this section are established to provide for the public safety, area development, preservation of property values, and the general welfare within the city. The purpose of this section is to:

(a) Protect public safety regarding motorists' line of sight at road and driveway intersections;

(b) Provide efficient access to city infrastructure and facilities which may be located on private property; and

(c) Protect property values by adopting a minimum level of aesthetic regulations.

This section regulates all fences within the City of Maryville except those exempted. No fence may be constructed, erected, moved, extended or enlarged unless it complies with the provisions herein.

Vegetation adjacent to one (1) roadway shall be dealt with additionally in this section in a limited manner as pertains to site distance issues.

(2) Definitions. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this section.

"Fence." An unroofed barrier or screen of any nature (excluding vegetation) or construction. A retaining wall is a fence insofar as it extends in height above the finished grade of the high side. Fences over six feet (6') tall shall be considered accessory structures and meet the setback requirements of § 14-214(9).

(3) Miscellaneous restrictions and prohibitions, including regulation of vegetation adjacent to roadways. (a) It shall be unlawful for any property owner or occupant to have or maintain on his or her property any fence which prevents or impairs persons driving vehicles on public streets or alleys from obtaining a clear view of traffic and/or traffic control signs.

(b) No fence may be located so that it substantially interferes with utility or emergency workers needing access to utilities including meters, fire hydrants and other fire protection devices, water main valves, stormwater junction boxes, catch basins, manholes, transformers, pedestals, etc.

(c) The removal and replacement cost of fences located within utility easements will be the property owner's responsibility when utilities have to be accessed for service or replacement. Therefore, construction of fences within utility easements is discouraged.

(d) It shall be unlawful for any property owner or occupant to have or maintain on his or her property any vegetation, including, but not limited to, bushes, trees or other plant matter which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic and traffic control signs.

(4) Nonconforming fencing. Subject to the remaining restrictions of this section, nonconforming fences that were otherwise lawful on the effective date of this section may be continued only pursuant to rights granted under state law and as provided herein.

(5) Enforcement of fence regulations. A permit is not required for erecting a fence. However, fences that are erected shall comply with this section. These fence regulations shall be enforced by the city manager or his designee. If a site plan was approved to include a fence, such fence shall be installed as specified on the site plan including height, location from property line and materials.

(6) Fence regulations applicable to properties within the College Hill Historic District and Oak Park Historic District. Property owners in the historic districts must prepare an application and receive approval by the City of Maryville Historic Zoning Commission before installing a fence. Following are the fence regulations for the historic districts.

(a) Preserve historic fence and retaining wall materials.

(b) The addition of historic fence designs and materials is appropriate; fence designs shall be related to the architectural design of the primary structure.

(c) Wood plank fences and solid wall brick fences walls shall not be placed between the street and the structure.

(d) Wood plank fences and solid walls shall not be added on secondary or side yards unless they are recessed back at least twenty feet (20') from the plane of the structure's front wall.

(e) Fences on the facades shall not exceed three feet (3') in height while fences on the secondary and rear facades shall be no higher than six feet (6'). On corner lots fences shall be no higher than two and one-half feet (2-1/2') within ten feet (10') of the street intersection.

(f) The use of uncoated-chain-link or vinyl/similar material is not allowed.

(g) The use of coated-chain-link is allowed, provided that:

(i) The proposed fencing would be located in a rear yard and would not be readily visible from a public street;

(ii) The proposed fencing would be located in a side yard in which the fencing is recessed back at least twenty feet (20') from the plane of the structure's front wall and is not highly visible from a public street; or

(iii) The fence must have a permanent black, brown or green coating. Other colors are allowed provided the applicant can demonstrate that the fence blends in with its background.

(h) Chain link pet cages are prohibited if clearly visible from the street.

(i) Wood picket and cast iron are the most appropriate materials at the sidewalk or property line on the primary facade of a residence or any street fronting side. Information provided in applications for proposed fencing shall include the location of the proposed fence on a scaled site plan, and the proposed materials. In the case of proposed picket fences, the details of the picket width, spacing, and design shall also be shown on drawings.

(j) Wooden split rail fences are prohibited.

(k) The use of ivy, vines, or other suitable plant material to cover or screen existing chain link fences is encouraged.

(7) Fence regulations applicable to residential properties outside historic districts. Applicable to single-family and two (2) family dwellings. Multi-family residential development having three (3) or more dwelling units shall comply with the fence regulations set forth in subsection (8) below, "Fences on commercial property."

Overflow parking not being part of the minimum parking required as stated in subsection (2) of this section maintained towards the rear of the site may utilize alternative surface materials for parking spaces and drive aisles including the following:

- Permeable interlocking concrete pavers,
- Pervious concrete (only allowed in parking spaces, not drive aisles),
- Pervious asphalt (only allowed in parking spaces, not drive aisles),
- Concrete grid pavers,
- Plastic turf reinforcing grid,
- Crushed stone (only allowed in parking spaces, not drive aisles),
- Gravel (only allowed in parking spaces, not drive aisles).

The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar material. No such alternative parking may be utilized within any front setback areas for a property. If the use of the property is changed or expanded to require additional minimum parking as stated in subsection (2) of this section, such overflow parking cannot count towards this requirement unless it is converted to asphalt, concrete, or other material that will provide equivalent protection against potholes, erosion, and dust.

A fence that is six feet (6') or less in height, measured from the ground to the top of the structure, may be erected adjacent to the rear and side property lines. Fence posts, including decorative features on fence posts, shall not exceed seven feet (7'), as measured from the ground to the top of the structure.

(a) A fence that is taller than six feet (6') in height, measured from the ground to the top of the structure, must meet minimum setback requirements for accessory structures per § 14-214(9).

(b) A fence may be erected in the front yard but shall be no closer than five feet (5') from the street right-of-way. Exception: Chain link or fence of similar type may extend to the street right-of-way when determined by the Maryville City Engineer that no sight distance problems or safety hazards exist.

(c) Fence structures should be free of barbs, spikes, razor wire electrical wire (except agricultural uses) and similar safety hazards.

(8) Fences on commercial property. The following standards shall apply to the design of all fencing on commercial and multi-family land uses.

(a) Fences. Fences that are visible from residential uses and are visible from public roads shall not be constructed of unfinished concrete block, unfinished chain link metal wire or mesh. Chain link fencing is only acceptable if it is dark colored. Chain link fencing is prohibited in the downtown districts when visible from public roads. Within the Parkway District Overlay, chain link fencing is prohibited when visible from public roads between U.S. 129 and Washington Street. Chain link is allowed in other areas within the Parkway Overlay District if screening trees (as defined in § 14-213(2)(r)) are planted at fifteen feet (15') intervals on the outer perimeter of the fence.

This specific fence standard regarding chain link shall not apply to property principally used for livestock areas or farms and shall not be applicable to fences in property zoned "Industrial."

These regulations, including fence height and material, shall not be applicable to areas of properties that require a heightened level of security, such as public and private utility equipment, perimeters of stormwater detention/retention ponds, and cellular tower equipment and similar uses. This subsection on fences also does not apply to temporary construction fencing.

(b) Fence structures should be free of barbs, spikes, razor wire electrical wire (except agricultural uses) and similar safety hazards unless granted a special exception from the BZA.

(c) Fences used to screen dumpsters. Dumpsters must be screened from public roads and adjacent residential uses, but flat faced block and any type of chain link fencing are not allowed. Dumpster screening may consist of painted split faced concrete block, brick, stone, wooden fencing or similar type materials.

(d) Construction fence wrapping. "Fence wrapping" is defined as mesh or similar material attached to construction fences for the purpose of attractively screening the view of construction sites. Fence wrapping shall not be subject to sign regulations. Such fence wrapping shall be allowed when all of the following conditions are met:

(i) Commercial sites must be two (2) acres or larger as measured by the area of disturbed soil;

(ii) Fence wrap shall not be placed in the right-of-way nor in areas that block motorist visibility; and

(iii) Fence wrap shall be attached to stable well-anchored fencing such as chain-linked fencing;

(9) Fences in the downtown districts. The following standards shall apply to the design and appearance of all fencing for properties in the downtown zoning districts as defined in l4-203(8)(d). The more restrictive standard shall apply to any conflict between this section and those found in the individual zoning district's requirements.

(a) Opaque fences and walls located between the street and front facade of a building shall not exceed three feet (3') in height. The front facade shall be any side of the building with a public entrance. The portion of any fence or wall exceeding three feet (3') in height. shall be transparent to the extent of allowing visibility of the building's front facade. To achieve this level of transparency, at least fifty percent (50%) of every one foot (1') of height of the fence or wall over three feet (3') must provide open-air access. The transparency requirement shall also apply to any gates associated with the fence or wall. The maximum height of fences and walls is regulated by subsection {c) of this section.

(b) The following fence materials are allowed in the downtown districts: Wrought or cast iron or coated tube aluminum that simulates wrought iron fencing, wood picket and plank fencing, brick, stone and other natural materials.

(i) Wood fencing must be stained or painted and chosen colors must be equivalent to the pre-approved Benjamin Moore's Historical Collection palette and compatible with the building or a color determined to be compatible by the Downtown Design Review Board.

(c) Unless otherwise provided for in this ordinance, no fence or wall may exceed six feet (6') in height.

(d) Dumpster screening: Dumpsters must be screened from public roads and adjacent residential uses. The following materials are acceptable for dumpster screening: Painted, split-faced, concrete block, brick, stone, wood fencing or similar type materials. Flat-faced concreted block and any form of chain link fencing are prohibited materials for dumpster screening.

(i) Metal that simulates wood planks in size and appearance may be used as dumpster screening provided it is coated or painted a color from the pre-approved Benjamin Moore's Historical Collection palette and compatible with the building or a color determined to be compatible by the Downtown Design Review Board.

(10) All fence wrap shall be removed with in two (2) weeks after a certificate of occupancy is issued.

(11) Landscape with fences used to screen commercial and industrial projects from adjacent residential development. The City of Maryville Land Development Regulations addresses ways to visually screen commercial and industrial development when it is located adjacent or across the street from a residential development. Landscaping and screening requirements are addressed in §14-213.

(12) Fence regulations applicable to properties in industrial zones. Properties zoned "Industrial" are only required to comply with subsections (1)-(5) of this fence section with the exception that only fences exceeding eight feet (8') tall need meet the setback requirements of § 14-221.

(13) Fence regulations in private subdivision covenants. Property in the City of Maryville may be subject to private restrictive covenants that set forth criterion for fencing. This section does not address such private restrictive covenants. The city does not enforce private restrictive covenants, and doing so would be outside of the city's legal authority. This section regulating fences shall apply to all property specified herein, regardless of what language may appear in such private restrictive covenants. (1999 Code, § 14-222, as amended by Ord. #2022-28, June 2022, Ord. #2022-36, July 2022, and Ord. #2023-03, Feb. 2023)

CHAPTER 3

HISTORIC ZONING COMMISSION

SECTION

14-301. Creation of historic zoning commission. (1) In accordance with *Tennessee Code Annotated*, §§ 13-7-401, *et seq*., there is hereby created a historic zoning commission for the City of Maryville which shall officially be known and designated as the "Maryville Historic Zoning Commission."

(a) Membership. (i) The members of the Maryville Historic Zoning Commission (HZC) shall be appointed by the mayor, subject to confirmation by the council. The commission shall be comprised of seven (7) members which consist of a representative of a local patriotic or historical organization; an architect, if available; a member of the Maryville Planning Commission at the time of such person's appointment; and the remainder shall be from the community in general.

(ii) The terms of the members shall be five (5) years, except that the members appointed initially shall be appointed for staggered terms so that the terms of at least one (1) member, but not more than two (2) members, shall expire each year. All members shall serve without compensation.

(iii) Members of the HZC may be removed from office by the mayor for just cause. Removal can also occur once the member has been absent from three (3) regular, consecutive meetings or absent from six (6) regularly scheduled meetings in a twelve (12) month period. A commission member moving outside the city shall constitute resignation from the commission effective on the date a replacement is appointed.

(iv) The commission shall annually elect from its members a chair and a vice chair.

(v) The commission may adopt rules and regulations consistent with the provisions of *Tennessee Code Annotated*, § 13-7-403(a).

(b) Meetings. (i) The HZC shall establish a regular meeting schedule and shall meet with sufficient frequency that it can take action expeditiously. Adequate notice shall be provided of a meeting of the commission. All meetings of the commission shall

be open to the public, and the agenda shall be made available in advance of the meeting.

(ii) Quorum. A quorum for the HZC shall consist of a majority of the regular commission membership (excluding vacant seats). A quorum is necessary for the commission to take official action.

(iii) Voting. The concurring vote of a simple majority of the regular commission membership (excluding vacant seats) shall be necessary to decide in favor of the applicant any matter upon which it is required to pass under any ordinance.

(iv) Conflict of interest. Any member of the HZC who shall have a direct or indirect interest in any decision of the commission shall recuse themselves from participating in the discussion, decision, and/or proceedings of the HZC in connection therewith. (1999 Code, § 14-301)

14-302. Powers and duties. (1) The HZC shall review all plans for construction, alteration, repair, rehabilitation, relocation or demolition of any structure in the designated zones in accordance with *Tennessee Code Annotated*, § 13-7-407(a), and either grant or deny certificates of appropriateness in accordance with *Tennessee Code Annotated*, § 13-7-408. In all cases the commission shall review within thirty (30) days all applications for construction within the designated zone. If a certificate of appropriateness is denied then the applicant shall be informed of the commission's finding in writing no later than seven (7) days after the termination of the thirty (30) day period.

(2) Historic zones and boundaries shall be recommended by the HZC to the Maryville Planning Commission and Council of the City of Maryville.

(3) The commission shall present guidelines for the historical districts to the planning commission for its recommendation to city council, who shall approve or deny approval of the same.

The HZC shall maintain guidelines for the historic districts and recommend to the planning commission and to city council any amendments needed. Copies of the HZCs "Required Regulations and Suggested Guidelines" shall be kept in the development services office.

(4) Windshield surveys of the historic districts should be undertaken on a regular basis by the HZC to monitor approved cases and to check that unauthorized work is not in progress.[1] (1999 Code, § 14-302)

14-303. Jurisdiction. (1) The HZC has jurisdiction over the historic zones per *Tennessee Code Annotated*, §§ 13-7-403 and 13-7-405 to 13-7-408.

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[1]Required Regulations and Suggested Guidelines (all volumes) and any amendments are of record in the city recorder's office.

(2) The following zoning districts must conform to the required regulations as adopted in the City of Maryville Zoning Ordinance, § 14-209:

(a) College Hill Historic District.

(b) Oak Park Historic District.

(c) College Hill Historic District Overlay.

(d) Oak Park Historic District Overlay.

(3) Decision-making thresholds. (a) Table of Review Levels: The following table indicates the items which require review and approval by the historic zoning commission and those which development services staff may administratively approve on behalf of the commission. Staff may refer any staff level item to the HZC for this review and approval. An applicant may also request any staff level item to be reviewed and approved by the HZC.

Table of Review Levels

TYPES OF APPLICATIONS	HZC	STAFF
Maintenance/in-kind repair/replacement		X
Minor restoration (exterior alterations that return the building, structure or site to its original condition)		X
Signage		X
Awnings/Canopies		X
Exterior lighting		X
Complaint fencing		X
Pools		X
All new construction, accessory buildings and additions	X	
Renovation (changes to the exterior configuration of a building or parcel, such as window/door alterations, the addition of mechanical equipment, that are not considered restoration)	X	
Demolition	X	
Departures (as defined in § 14-303(3)(b))	X	

(b) Design criteria departure. The historic zoning commission may, by majority vote, recommend flexibility from the design regulation if it is agreed that the proposed alternative is equal to, or better than, the

written standard. In addition, at least three (3) of the following criteria must be met:

(i) The alternative is appropriate in scale and character to the surrounding area.

(ii) There is evidence that the alternative is historically appropriate for the site/structure.

(iii) The alternative employs innovation and/or technology that the original regulation does not account for.

(iv) The alternative meets the intent of the original regulation. (1999 Code, § 14-303, as amended by Ord. # 2020-20, Aug. 2020)

14-304. Review of decision. Any person who may be aggrieved by any final order or judgment of the HZC may have such order or judgment reviewed by the courts by the procedure of statutory certiorari as provided in *Tennessee Code Annotated*, § 13-7-409. (1999 Code, § 14-304, modified)

CHAPTER 4

FLOODPLAIN ZONING ORDINANCE

SECTION

14-401. Statutory authorization. The Legislature of the State of Tennessee has in *Tennessee Code Annotated*, §§ 13-7-201 to 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. (1999 Code, § 19-201)

14-402. Findings of fact. (1) The Council of the City of Maryville wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of section 60.3 of the Federal Insurance Administration Regulations found at 44 CFR ch. 1 (10-1-04 edition).

(2) Areas of Maryville are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(3) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages. (1999 Code, § 19-202)

14-403. Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

(1) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(2) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands. (1999 Code, § 19-203)

14-404. Objectives. The objectives of this chapter are:

(1) To protect human life, health and property;

(2) To minimize expenditure of public funds for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;

(6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;

(7) To ensure that potential homebuyers are notified that property is in a floodable area; and

(8) To maintain eligibility for participation in the National Flood Insurance Program. (1999 Code, § 19-204)

14-405. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "100-year flood." See "base flood."

(2) "Accessory structure" means a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

(a) "Accessory structures" shall not be used for human habitation.

(b) "Accessory structures" shall be designed to have low flood damage potential.

(c) "Accessory structures" shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.

(d) "Accessory structures" shall be firmly anchored to prevent flotation which may result in damage to other structures.

(e) Service facilities such as electrical and heating equipment shall be elevated or flood-proofed.

(3) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. § 4001-4128.

(4) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered "new construction."

(5) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.

(6) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' - 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident (such flooding is characterized by ponding or sheet flow).

(7) "Area of special flood-related erosion hazard" means the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(8) "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(9) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

(10) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

(11) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(12) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (see "structure").

(13) "Development" means any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(14) "Development permit" means any number of permits which are issued for specific phases of a project including, but not limited to, the following: grading permits; site plan approval; or building permits and elevation certifications. Site plan approval process can be found in the Maryville Zoning and Land Use Ordinance.

(15) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood water, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(16) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with § 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(17) "Erosion" means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.

(18) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(19) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(20) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(21) "Existing structures." See "existing construction."

(22) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(23) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; or

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(24) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(25) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(26) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

(27) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(28) "Flood insurance study" means the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(29) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding") and shall be that area referenced on the FEMA flood boundary and floodway maps which are hereby part of the floodway district referenced and part of the Maryville Zoning and Land Use Ordinance.

(30) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

(31) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(32) "Flood-proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(33) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(34) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water which, due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(35) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including, but not limited to, emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(36) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The area designed as "flooding" and referenced on the FEMA flood boundary maps and flood insurance rate maps are hereby made part of the floodway district referenced and part of the Maryville Zoning and Land Use Ordinance.

(37) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(38) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

(39) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(40) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(41) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(42) "Levee" means a human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(43) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(44) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(45) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

(46) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(47) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

(48) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within

the floodplain. For the purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(49) "National Geodetic Vertical Datum (NGVD)," as corrected in 1929, means a vertical control used as a reference for establishing varying elevations within the floodplain.

(50) "New construction" means any structure for which the "start of construction" commenced after the effective date of this chapter or the effective date of the first floodplain management ordinance, and includes any subsequent improvements to such structure.

(51) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of this chapter or the effective date of the first floodplain management ordinance, and includes any subsequent improvements to such structure.

(52) "North American Vertical Datum (NAVD)," as corrected in 1988, means a vertical control used as a reference for establishing varying elevations within the floodplain.

(53) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(54) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(55) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(56) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(57) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(58) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of

construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(59) "State coordinating agency" means the Tennessee Department of Environment and Conservation as designated by the State of Tennessee.

(60) "Stormwater program manager" means the City of Maryville engineer or other person as appointed by the city manager and is referred to as administrator in this document.

(61) "Structure," for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other human-made facilities or infrastructures.

(62) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(63) "Substantial improvement" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial repair or improvement; or

(b) In the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

(c) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(d) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(64) "Substantially improved existing manufactured home parks or subdivisions" means where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(65) "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

(66) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(67) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas. (1999 Code, § 19-205)

14-406. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of Maryville, Tennessee where applicable. The area designed and shown on the FEMA flood boundary and floodway maps and referenced in subsection (2) of this section shall also be designated as the Floodway District referenced in the Maryville Zoning and Land Use Ordinance, as amended, and Maryville Subdivision Regulations, as amended.

Further, it is the intent of these provisions to supplement and complement those rules and regulations found in both the Maryville Zoning and Land Use Ordinance, as amended, and the Maryville Subdivision Regulations, as amended. These documents are in full force and effect and can be found in the planning office or City Recorder's Office of the City of Maryville.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Maryville, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), map number 47009CINDOC, community number 470439, panel numbers 0119, 0120, 0137, 0138, 0139, 0143, 0232, 0234, 0235,

0251, 0253, 0254, and 0275, dated September 19, 2007, along with the following panels 0115, 0141, 0142, 0144, 0165, 0250 dated September 17, 2007 and all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Maryville, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (1999 Code, § 19-206)

14-407. Designation of ordinance administrator. The stormwater program manager, or his/her designee, is hereby appointed as the administrator to implement the provisions of this chapter. (1999 Code, § 19-207)

14-408. Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to, the following: Plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment; and drainage facilities.

(1) Application stage. (a) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFEs are available, or to the highest adjacent grade when applicable under this chapter.

(b) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where BFEs are available, or to the highest adjacent grade when applicable under this chapter.

(c) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in this section.

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(2) Construction stage. Within unnumbered A Zones, where flood elevation data is not available, the administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or flood-proofing level upon the completion of the lowest floor or flood-proofing. Within unnumbered A Zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor and certified by same. When flood-proofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. (1999 Code, § 19-208)

14-409. Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to:

(1) Review of all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(2) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require

that copies of such permits be provided and maintained on file with the development permit. This shall include § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

(3) Notification to adjacent communities and the Tennessee Department of Environment and Conservation prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(4) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the letter of map revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(5) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor, including basement, of all new or substantially improved buildings, in accordance with § 14-408.

(6) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with § 14-408.

(7) When flood-proofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 14-408.

(8) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(9) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community FIRM meet the requirements of this chapter.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or flood-proofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-405 of this chapter). All applicable data including elevations or flood-proofing certifications shall be recorded as set forth in § 14-408.

(10) All records pertaining to the provisions of this chapter shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be

maintained in a separate file or marked for expedited retrieval within combined files. (1999 Code, § 19-209)

14-410. Provisions for flood hazard reduction. (1) General standards. In all flood-prone areas, the following provisions are required:

(a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to, and consistent with, applicable state requirements for resisting wind forces;

(c) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them, or contamination from them, during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter; and

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter shall be undertaken only if said nonconformity is not further extended or replaced.

(2) Specific standards. These provisions shall apply to all areas of special flood hazard as provided herein:

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any

residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than two feet (2') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of flood water shall be provided in accordance with the standards of this subsection.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or flood-proofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-405 of this chapter). All applicable data including elevations or flood-proofing certifications shall be recorded as set forth in § 14-408.

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or flood-proofed no lower than two feet (2') above the level of the base flood elevation.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or flood-proofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-405 of this chapter). All applicable data including elevations or flood-proofing certifications shall be recorded as set forth in § 14-408.

Buildings located in all A Zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-408.

(c) Elevated building. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a professional engineer or architect, or meet the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finish grade; and

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of flood waters in both directions.

(ii) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator).

(iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of flood waters and all such petitions shall comply with the provisions of § 14-410(2) of this chapter.

(d) Standards vehicles for manufactured homes and recreational. (i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) When base flood elevations are available, the lowest floor of the manufactured home is elevated on a permanent foundation no lower than two feet (2') above the level of the base flood elevation; or

(B) Absent base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three feet (3') in height above the highest adjacent grade.

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has

substantially improved must meet the standards of § 14-410(2)(d) of this chapter.

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed on identified flood hazard sites must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days.

(B) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.

(C) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section if on the site for longer than one hundred eighty (180) consecutive days.

(e) Standards for subdivisions. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(i) All subdivision proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 14-406(2) are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of flood waters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted, however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in any increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 14-410.

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 14-406(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-410(2).

(5) Standards for streams without established base flood elevations or floodways (A Zones). Located within the areas of special flood hazard established in § 14-406, where streams exist, but no base flood data has been provided (A Zones), or where a floodway has not been delineated, the following provisions shall apply:

(a) When base flood elevation data or floodway data have not been provided in accordance with § 14-406, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of § 14-410. Only if data is not available from these sources, then the following provisions in subsections (b) and (c) below shall apply:

(b) No encroachments, including structures or fill material, shall be located within sixty feet (60') of the stream bank, measured from the top of bank unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing data shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet (3') above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with the standards of § 14-410(2), and "elevated buildings."

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the areas of special flood hazard established in § 14-406(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least two feet (2') above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of § 14-410(2), and "elevated buildings."

(b) All new construction and substantial improvements of non-residential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood-proofed and designed watertight to be completely flood-proofed to at least two feet (2') above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood-proofed to at least three feet (3') above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such

certification to the administrator as set forth above and as required in § 14-408.

(c) Adequate drainage paths shall be provided around slopes to guide flood waters around and away from proposed structures.

(d) The administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-406(2) are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones), all provisions of §§ 14-408 to 14-410(1) shall apply.

(8) Standards for unmapped streams. Located within Maryville, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

(a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within sixty feet (60') of the stream bank, measured from the top of bank unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-408. (1999 Code, § 19-210)

14-411. Review and variance procedures. (1) Board of zoning appeals. The provisions of this section shall apply exclusively to areas of special flood hazard areas. An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved, or by any governmental offices, department, or bureau affected by any decision of the administrator based on whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the board of zoning appeals a notice of appeal, specifying the grounds thereof. Processes and procedures for hearing the appeal are outlined in the Maryville Zoning and Land Use Ordinance.

The board of zoning appeals has been created and established by the Council of the City of Maryville under authority granted in *Tennessee Code Annotated*, § 13-7-207. Specific powers and authority of the board of zoning appeals are found in the Maryville Zoning and Land Use Ordinance.

(a) Administrative review. The City of Maryville Board of Zoning Appeals shall hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in the carrying out or enforcement of any provision or regulation of this chapter.

(b) Variance procedures. In the case of a request for a variance the following shall apply:

(i) The City of Maryville, Tennessee Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(ii) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(iii) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter and:

(A) The danger that materials may be swept onto other property to the injury of others;

(B) The danger to life and property due to flooding or erosion;

(C) The susceptibility of the proposed facility and its contents to flood damage;

(D) The importance of the services provided by the proposed facility to the community;

(E) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

(F) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(G) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(H) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(J) The costs of providing governmental services during and after flood conditions including maintenance and

repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(iv) Upon consideration of the factors listed above, and the purposes of this chapter, the board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

(v) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(b) Variances shall only be issued upon: A showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on, or victimization of, the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (1999 Code, § 19-211)

14-412. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of City of Maryville, Tennessee, the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this chapter which is not of itself invalid or unconstitutional. (1999 Code, § 19-212)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS[2]

SECTION

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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.

15-101. 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 a properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by *Tennessee Code Annotated*, title 55, chapter 9.

Further, it shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle be registered and/or have a proper certificate of title as described and required by *Tennessee Code Annotated*, title 55, chapters 1, 3, and 4.

The foregoing provisions are deemed a condition precedent to the operation of any motor vehicle upon the streets of the municipality, and the foregoing violations are prescribed under the authority of Priv. Acts 1967, ch. 27, art. II, § 1, subsection (18) (The Charter of the City of Maryville, Tennessee). (1999 Code, § 15-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven

upon any street that is barricaded or closed for repairs or other lawful purpose. (1999 Code, § 15-102)

15-103. Public assemblies, picketing, etc.: distracting motorists or other passers by restricted. No person, persons, group, club, organization, or similar gathering shall engage in or conduct any gathering, demonstration, public assembly, picketing, proselytizing, performance, or any other related event designed to attract the attention of motorists or other passers by within two hundred fifty feet (250') of the center point of any of the following intersections:

(1) U.S. Hwy. 321 (West Lamar Alexander Parkway) at U.S. Hwy. 411 (West Broadway);

(2) U.S. Hwy. 129 (Bypass) at U.S. Hwy. 321 (West Lamar Alexander Parkway);

(3) U.S. Hwy. 321 (West Lamar Alexander Parkway) at Foothills Mall Drive;

(4) Foch Street at U.S. Hwy. 129 (By-Pass);

(5) U.S. Hwy. 411 (West Broadway) at Foothills Mall Drive;

(6) U.S. Hwy. 321 (West Lamar Alexander Parkway) at Court Street;

(7) U.S. Hwy. 321 (East Lamar Alexander Parkway) at Washington Street; and

(8) U.S. Hwy. 411 (Broadway) at Washington Street.

The activity prohibited by this section shall not be allowed within the streets, medians, sidewalks, common areas, private property, or right-of-way in the designated area. (1999 Code, § 15-103)

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. (1999 Code, § 15-104)

15-105. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the municipality for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction, or when preparing for a left turn. (1999 Code, § 15-105)

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-lane and three-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. (1999 Code, § 15-106)

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane line or centerline, 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. (1999 Code, § 15-107)

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/town unless otherwise directed by a police officer.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic.

15-109. General requirements for traffic control signs, etc. Pursuant to *Tennessee Code Annotated*, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*,[2] and shall be uniform as to type and location throughout the city.

15-110. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon, or in view of, any street any unauthorized sign,

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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]For the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, *et seq*.

signal, marking, or device which purports to be, or is an imitation of, or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view, or interferes with, the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1999 Code, § 15-110)

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 municipal authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, and approved irrespective of whether or not they were lawfully placed originally. (1999 Code, § 15-111)

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. (1999 Code, § 15-112)

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. (1999 Code, § 15-113)

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. (1999 Code, § 15-114)

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. (1999 Code, § 15-115)

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. (1999 Code, § 15-116)

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 inches (12") square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1999 Code, § 15-117)

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. (1999 Code, § 15-118)

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law," being *Tennessee Code Annotated*, §§ 55-1-101 *et seq*., or the "Uniform Classified and Commercial Driver License Act of 1988," being *Tennessee Code Annotated*. §§ 55-50-101 *et seq*. (1999 Code, § 15-119, modified)

15-120. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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

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

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

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1999 Code, § 15-120)

15-121. Damaging pavements. No person shall operate upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1999 Code, § 15-121)

15-122. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.), and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city/town 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, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle 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.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) (a) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(i) Except as provided in subdivisions (a)(ii)-(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 1/2") in diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Memorial Foundation, Inc..

(b) This section does not apply to persons riding:

(i) Within an enclosed cab;

(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.) and have the capacity to maintain posted highway speed limits;

(iii) Golf carts; or

(iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear

safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) 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, motor driven cycle or motorized bicycle in violation of this section.

15-123. Operation of motor vehicle without adequate energy absorption system prohibited--alteration of altitude from ground level of passenger car prohibited--exceptions--enforcement. (1) No person shall operate a motor vehicle on any road, street, or highway in the City of Maryville unless the vehicle is equipped with a bumper or other energy absorption system with an analogous function.

(2) (a) No person shall operate a passenger vehicle, except a four (4) wheel drive recreational vehicle, of a type required to be registered under the laws of this state upon a city highway or street modified by reason of alteration of its altitude from the ground if its bumpers, measured to any point on a load-bearing member on the horizontal bumper bar, are not within the range of fourteen inches (14") to twenty-two inches (22") above the ground, except that no vehicle shall be modified to cause the vehicle body or chassis to come in contact with the ground or expose the fuel tank to damage from collision or cause the wheels to come in contact with the body under normal operation and that no part of the original suspension system be disconnected to defeat the safe operation of the suspension system; provided, that nothing contained in this section shall prevent the installation of heavy duty equipment to include shock absorbers and overload springs; and provided further, that nothing contained in this section shall prevent a person from operating a motor vehicle on a public highway with normal wear of the suspension system if normal wear does not affect the control of the vehicle.

(b) No person shall operate a four (4) wheel drive recreational vehicle of a type required to be registered under the laws of this state upon a city highway or street modified by reason of alteration of its altitude from the ground if its bumpers, measured to any point on a load-bearing member on the horizontal bumper bar, are not within the range of fourteen inches (14") to thirty-one inches (31") above the ground, except that no vehicle shall be modified to cause the vehicle body or chassis to come in contact with the ground or expose the full tank to damage from collision or cause the wheels to come in contact with the body under normal operation and that no part of the original suspension system be disconnected to defeat the safe operation of the suspension system; provided, that nothing contained in this section shall prevent the installation of heavy duty equipment to include shock absorbers and

overload springs; and provided further, that nothing contained in this section shall prevent a person from operating a motor vehicle on a public highway with normal wear of the suspension system if normal wear does not affect the control of the vehicle. In the case of a four (4) wheel drive vehicle where the thirty-one inches (31") limitation is exceeded, the vehicle will comply with this section if the vehicle is equipped with a drop bumper. Such a drop bumper must be bolted and welded to the frame of the vehicle and be made of a strength equal to a stock bumper.

(3) This section shall not apply to freight motor vehicles and/or other vehicles which have designs which would intrinsically preclude conformity with this provision. This section also shall not apply to any vehicle which has an unaltered and undamaged stock bumper or energy absorption system as supplied by the manufacturer of the vehicle.

(4) Any law enforcement officer charged with the enforcement of traffic laws and regulations may stop and inspect motor vehicles which appear to be operated in violation of this section. If, upon inspection, the vehicle is found to be in violation of this section, the operator shall be issued a citation stating the particulars of the violation and, in general, the repairs necessary to bring the vehicle into compliance with this section. The citation shall also state a time and place for appearance in city court, not less than fourteen (14) days from the date of the issuance of the citation.

(5) If, upon reinspection at such an appearance, the defect is found to have been corrected, or the vehicle is found to be in compliance with this section, and upon payment of the court costs, no further penalties shall be assessed. If, however, the vehicle is found not to be in compliance with this section, the operator shall be fined in accordance with the general penalty clause for this code.

(6) Nothing in this section shall be construed to establish standards higher than those formulated by the United States Department of Transportation for bumpers on passenger motor vehicles sold within the United States. (1999 Code, § 15-123)

15-124. Child passenger restraint system required. Any person transporting a child/children under the age of four (4) years in a motor vehicle on the roadways, streets or highways of this city shall be responsible for providing for the protection of the child/children and properly using a child passenger restraint system meeting federal motor vehicle safety standards; provided, however, nothing in this section shall restrict a mother from removing the child from such system and holding the child when the mother is nursing the child, or attending to its other physiological needs; provided, that the term "motor vehicle," as used in this section, shall not apply to recreational vehicles of the truck or van type; provided further, that the term "motor vehicle," as used in this section, shall not apply to trucks having a tonnage rating of one (1) ton or more. (1999 Code, § 15-124)

15-125. Truck traffic restricted on Broadway. It shall be unlawful for any person to operate or drive a truck, tractor-trailer truck, bus or any vehicle with a trailer attached upon that portion of Broadway Avenue from Cate Street to Norwood Street, except that said vehicles may be operated and driven on said portion of Broadway Avenue for the purpose of loading and unloading for properties located on said portion of said Broadway Avenue between the hours of 6:00 P.M. to 10:30 A.M. The term "truck" and "tractor-trailer truck," for the purpose of this section, shall be construed as any such truck having a rated capacity of one (1) ton or greater. (1999 Code, § 15-125)

15-126. Following too closely. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent having due regard for the speed of such vehicles and the traffic upon, and the conditions of, the roadway. (1999 Code, § 15-126)

15-127. Window tint. (1) It shall be unlawful for any person to operate, upon a public highway, street or road, any motor vehicle registered in this state, in which any window, which has a visible light transmittance equal to, but not less than specified in the Federal Motor Vehicle Safety Standard No. 205, has been altered, treated or replaced by the affixing or installation of any material which:

(a) Has a visible light transmittance of less than thirty-five percent (35%); or

(b) With the exception of the manufacturer's standard installed shade band, reduce the visible light transmittance in the windshield below seventy percent (70%).

(2) Any vehicle model permitted by federal regulations to be equipped with certain windows tinted so as not to conform to the specifications of subsection (1) above, shall be exempt from subsection (1) above with respect to those certain windows. Likewise, vehicles bearing commercial license plates shall be exempt from the specification of subsection (1) above, for those windows rearward of the front doors. This subsection shall not be construed in any way to exempt the front door windows of any vehicle of any kind from the specifications of subsection (1) above.

(3) Violation of this section shall be a misdemeanor, punishable by a fine of not more than fifty dollars ($50.00). (1999 Code, § 15-127)

15-128. Safety belts in passenger vehicles. (1) It shall be unlawful for any person to operate a motor vehicle within the corporate limits of the city unless child passengers in the vehicle are restrained according to the provisions of *Tennessee Code Annotated*, § 55-9-602(a), including all subsections thereof, then and there in effect. In addition to or in lieu of the penalty imposed for violation of this section, persons guilty of their first offense of violating this section may be required to attend a court approved offenders' class designed to

educate offenders on the hazards of not properly transporting children in motor vehicles. A fee may be charged for such class sufficient to defray all costs of providing such class.

(2) No person shall operate a passenger motor vehicle in the city limits of the City of Maryville unless such person and all passengers nine (9) years of age and older are restrained by a safety belt at all times the vehicle is in forward motion.

(3) No person nine (9) years of age or older shall be a passenger in a motor vehicle in the City of Maryville unless such person is restrained by a safety belt at all times the vehicle is in forward motion.

(4) As used in this section, "passenger motor vehicle" means any motor vehicle with a manufacturer's gross vehicle weight rating of eight thousand, five hundred (8,500) pounds or less that is not used as a public or livery conveyance for passengers and does not apply to motor vehicle which are not required by federal law to be equipped with safety belts.

(5) Violation of this section shall be punishable pursuant to the general penalty clause of the City of Maryville and as otherwise set forth herein in subsection (1) regarding subsection (1) above.

(6) This section shall not apply to:

(a) A passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety seat or seat belt; provided, that such condition is duly certified in writing by a physician who shall state the nature of the handicap as well as the reason such restraint is inappropriate;

(b) A passenger motor vehicle operated by a rural letter carrier of the United States Postal Service while performing the duties of a rural letter carrier;

(c) Utility workers, water, gas and electric meter readers in the course of their employment;

(d) Newspaper delivery motor carrier service while performing the duties of a newspaper delivery motor carrier service; provided, that this exemption shall apply only from the time of the actual first delivery to the customer until the last actual delivery to the customer; or

(e) Sales persons or mechanics employed by an automobile dealer who, in the course of their employment, test drive a motor vehicle, if such dealership customarily test drives fifty (50) or more motor vehicles a day, and if such test drives occur within one (1) mile of the location of the dealership. (1999 Code, § 15-128)

15-129. <u>Coloring or alteration of headlights on motor vehicle</u>. It shall be unlawful for any person to operate a motor vehicle with headlights which have been painted, blacked out, darkened, or otherwise altered in color. Headlights are deemed altered in color if they do not project a white or clear light. (1999 Code, § 15-129)

15-130. Use of a dynamic braking device (Jake Brake) prohibited.

(1) Any motor vehicle traveling within the corporate limits of the City of Maryville is prohibited from using dynamic braking devices (commonly refers to as a Jake Brake) except in the event that a motor vehicle loses normal means to slow down and stop.

(2) The "dynamic braking device" is defined hereby as a device used on motor vehicles for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes. (1999 Code, § 15-130)

15-131. Compliance with financial responsibility law required.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" shall be defined by *Tennessee Code Annotated*, § 55-12-139:

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars ($50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge that is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected, notwithstanding any law to the contrary.

15-132. Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the city 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 to 55-8-131, and §§ 55-8-133 to 55-8-180.

Additionally, the city adopts *Tennessee Code Annotated*, § 55-4-101 through 55-4-135, §§ 55-8-181 to 55-8-193, §§ 55-8-199, 55-8-204, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-50-351 by reference as if fully set forth in this section.

15-133. Motor vehicles prohibited from using private property as thoroughfares to avoid traffic control devices. It shall be unlawful for the operator of any vehicle to leave the roadway and travel across private property, or public property devoted to other than highway use, to avoid compliance with an official signal or an official traffic sign, or for the purpose of avoiding obedience to directions given by a police officer or any traffic regulations or ordinance. (1999 Code, § 15-132)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

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. (1999 Code, § 15-201)

15-202. Operation of authorized emergency vehicles.[1] (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to, but not upon returning from, a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle, and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with, or display, a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1999 Code, § 15-202)

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[1]Municipal code reference
Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500'), or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1999 Code, § 15-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a firefighter or police officer. (1999 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

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 twenty-five (25) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1999 Code, § 15-301, as amended by Ord. #2023-35, Nov. 2023)

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. (1999 Code, § 15-302)

15-303. In school zones. It shall be unlawful for any person to operate or drive a motor vehicle at a rate of speed in excess of fifteen (15) miles per hour when passing a school during recess or while children are going to or leaving school during its opening or closing hours. (1999 Code, § 15-303)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality. (1999 Code, § 15-304)

CHAPTER 4

TURNING MOVEMENTS

SECTION

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] (1999 Code, § 15-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway. (1999 Code, § 15-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof, and by passing to the right of the intersection of the centerline of the two (2) roadways. (1999 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1999 Code, § 15-404)

15-405. U-turns. U-turns are prohibited. (1999 Code, § 15-405)

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[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

15-501. 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. (1999 Code, § 15-502)

15-502. 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. (1999 Code, § 15-503)

15-503. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately one thousand, five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1999 Code, § 15-504)

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1999 Code, § 15-505)

15-505. At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1999 Code, § 15-506)

15-506. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go".

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution".

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop".

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(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 do to so 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. (1999 Code, § 15-507)

15-507. <u>At flashing traffic-control signals</u>. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the municipality, it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1999 Code, § 15-508)

15-508. <u>At pedestrian control signals</u>. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the municipality, such signals shall apply as follows:

(1) "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. (1999 Code, § 15-509)

15-509. <u>Stops to be signaled</u>. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,[1] except in an emergency. (1999 Code, § 15-510)

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[1]State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this municipality shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the municipality has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a 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. (1999 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the municipality for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1999 Code, § 15-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1999 Code, § 15-603)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or municipality, nor:

(1) On a sidewalk.

(2) In front of, or within five feet (5') of, a public or private driveway.

(3) Within an intersection, or within twenty-five feet (25') thereof.

(4) Within fifteen feet (15') of a fire hydrant.

(5) Within a pedestrian crosswalk.

(6) Within fifty feet (50') of a railroad crossing.

(7) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of the entrance.

(8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.

(9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(10) Upon any bridge.

(11) Alongside any curb painted yellow or red by the municipality.

(12) Park at a distance of sixty-five feet (65') from the intersecting streets of Cunningham Street, Melrose Street, and South Cedar Street along the northern side of Mountain View Avenue.

(13) On any area within a municipal owned parking lot or garage other than the striped parking stalls. (1999 Code, § 15-604)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the municipality as a loading and unloading zone. (1999 Code, § 15-605)

15-606. Parking on city parking lots regulated. It shall be unlawful for any person, firm or corporation to park any vehicle upon any public parking lot, including parking garages, owned or maintained by the City of Maryville for a period of more than seventy-two (72) consecutive hours except where such parking is expressly allowed by the chief of police pursuant to any city permitted special event or for other good cause. (1999 Code, § 15-612)

15-607. Handicapped parking. (1) Any business, firm, or other person transacting business with the public from a permanent location in the City of Maryville may provide on private property, and the City of Maryville may

provide on public property specially marked parking spaces for the exclusive use of any handicapped driver or handicapped passenger to whom the distinctive license plates or placards were issued pursuant to *Tennessee Code Annotated*, title 55, chapter 21, and to qualified operators acting under the express direction of a handicapped driver or handicapped passenger.

(2) Each such parking space shall be marked and maintained with the stylized wheelchair symbol designated by *Tennessee Code Annotated*, § 55-21-104. Provided, however, nonconforming markings or signs shall be acceptable during the useful life of such markings or signs which may not be extended by other than normal maintenance as long as such markings or signs provide reasonable notice of the specially marked parking space.

(3) It shall be unlawful for any person, except those persons designated in subsection (1) above, to park in any parking space marked and maintained as provided in subsection (2) above, located on either public or private property, and any violation of the provisions of this section shall be punishable by a fine of not less than fifty dollars ($50.00).

(4) Whether violations occur on public or private property, the provisions of this section shall be enforced in the same manner used to enforce other parking laws of the City of Maryville. (1999 Code, § 15-613)

15-608. Parking on private parking lots regulated.[1] It shall be unlawful for any person to park a truck tractor, a trailer, or semitrailer, as defined in *Tennessee Code Annotated*, §§ 55-1-104 and 55-1-105, in any parking lot of a privately-owned shopping mall or shopping center in the City of Maryville, or in any other privately-owned parking lot in the City of Maryville which will accommodate thirty (30) or more motor vehicles, without obtaining permission to park in such a parking lot from the parking lot owner, manager, or other authorized agent of the owner. It shall not be unlawful for such a truck or trailer to park for the purpose of loading or unloading. Any violation of the provisions of this section shall be punishable under the general penalty clause for this municipal code. The provisions of this section shall be enforced in the same manner used to enforce other parking laws of the City of Maryville. (1999 Code, § 15-614)

15-609. Parking of trucks, tractor-trailers and buses upon public streets or public ways regulated. (1) Definitions. (a) "Buses" and "motor vehicles" means every self propelled device in, upon, or by which any person or property is, or may be, transported or drawn upon a highway, excluding motorized bicycles and every vehicle which is not propelled by electric power.

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[1]See also Priv. Acts 1986, ch. 144, which also regulates this activity.

(b) "Loading" and "unloading" means to place or store goods, wares, or merchandise into a trailer or motor vehicle, or to remove such items from said vehicle and shall for purposes of this section refer to the actual time consumed in such operation.

(c) "Pole trailers" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connection.

(d) "Refrigeration" or "refrigerated" means any unit or individual compartment for the purpose of such storage and preservation of frozen foods, commodities, or goods for human consumption or use.

(e) "Residential area" means an area predominately in use for residential purposes.

(f) "Roads" means streets, highways, avenues, boulevards, parkways, lanes or other ways, or any part of the public transportation system, and shall mean the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and passage.

(g) "Semitrailers" means every vehicle without motive power and not a motor vehicle as herein defined, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(h) "Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no part of its weight rests upon the towing vehicle.

(i) "Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

(j) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(2) Parking provisions. It shall be unlawful for any person, firm, or corporation owning, operating or having control of any truck, truck tractor, trailer, semitrailer, pole trailer, bus or motor vehicle in excess of one (1) ton capacity to park the same upon any street or public way within the corporate limits of Maryville, Tennessee.

(3) Refrigerated trucks. It shall be unlawful for any person, firm, or corporation owning, operating or having control of any truck, truck tractor, trailer, semitrailer, pole trailer, bus or motor vehicle which has refrigeration

capability or capacity to park the same upon any street or public way, or on private property within any residential area within the corporate limits with the refrigeration units operating.

(4) Exclusions. The provisions of subsection (2) above shall not be deemed to prohibit the lawful parking of any truck, truck tractor, trailer, semitrailer, pole trailer, bus or motor vehicle and related equipment upon any street within the corporate limits for the loading or unloading of goods, wares, materials, supplies or merchandise.

The provisions of subsection (3) above shall not be deemed to prohibit the lawful parking of refrigerated trucks, truck tractors, trailers, semitrailers, pole trailers, bus or motor vehicles with refrigeration capability or capacity upon any street or public way within the corporate limits for the loading or unloading of goods, wares, materials, supplies or merchandise.

The provisions of these subsections shall not be deemed to prohibit the parking of any truck, trailer, truck tractor, bus or motor vehicle within a designated construction or work zone on streets or public ways within the corporate limits. This provision shall be applicable only for the duration of construction within the designated construction or work zone.

(5) Penalty. Any person, firm, or corporation owning, operating or having control of any truck, truck tractor, trailer, semitrailer, pole trailer, bus or motor vehicle, or refrigerated type trailers or motor vehicles shall be subject to a fine not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each parking violation of this section. (1999 Code, § 15-615)

15-610. Parking enforcement in Royal Oaks subdivision. In the platted subdivision known as Royal Oaks in the corporate limits, no person shall park a vehicle on the street in violation of restrictions on parking stated on any official sign placed or erected by the Royal Oaks Property Owners Association, Inc. where such sign has been approved and authorized by the Chief of Police of the City of Maryville. Parking in an area where parking is prohibited pursuant to such signage will result in a parking citation and/or a vehicle being subject to being towed at the owner's expense. Parking in such areas shall further subject the vehicle and its owner to all other enforcement mechanisms found in the city code to regulate illegal parking. (1999 Code, § 15-616)

15-611. Closing of city owned or maintained parking lots, including parking garages. The City of Maryville through its city manager or chief of police reserves the right to close either portions or the entirety of any city-owned or maintained parking lots, including parking garages, for city permitted special events, during emergency situations or as otherwise deemed necessary by such city manager or chief of police for the health, safety and welfare of the citizens of the City of Maryville. (1999 Code, § 15-617)

CHAPTER 7

ENFORCEMENT

SECTION

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. (1999 Code, § 15-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1999 Code, § 15-702)

15-703. Use of driver's license in lieu of bail. The City of Maryville does hereby adopt the provisions of *Tennessee Code Annotated*, title 55, chapter 50, part 8, allowing the deposit of chauffeur's or operator's license by any person issued a citation or arrested and charged with the violation of any municipal ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of an operator's or chauffeur's license for any period of time, in lieu of bail of any other security required for appearance in the City Court of the City of Maryville. (1999 Code, § 15-703)

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[1]State law reference
Tennessee Code Annotated, §§ 7-63-101, *et seq*.

15-704. Illegal parking. (1) Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, or by ordinance or regulation of the city, 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 fifteen (15) days during the hours and at a place specified in the citation.

(2) In all prosecutions for alleged violations of any of the restrictions imposed by this code, or by any ordinance or regulation of the city, the owner of the vehicle involved shall be prima facie presumed to have been the operator or in control thereof at the time the alleged offense was committed, and no such owner shall evade guilt for any such violation by representing that he was not operating or in control of the vehicle himself at the time the alleged offense was committed unless at that time the vehicle was being operated without his express or implied consent, or unless such owner furnishes the name of the person who was operating the vehicle with the owner's consent at the time the alleged offense was committed, and a signed statement under oath by such person showing that he was operating and in control of the owner's vehicle at that time. (1999 Code, § 15-704, modified)

15-705. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested, or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner, or other person entitled thereto, claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until otherwise lawfully disposed of. (1999 Code, § 15-705)

15-706. Violations and penalty. Any violation of this chapter 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. (a) Parking meter. If the offense is a parking meter violation, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the recorder a fine of three dollars ($3.00); provided, he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, his civil penalty shall be ten dollars ($10.00).

(b) Other parking violations excluding handicapped parking. For other parking violations, excluding handicapped parking violations, the offender may, within thirty (30) days, have the charge against him

disposed of by paying to the recorder a fine of ten dollars ($10.00); provided, he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, his civil penalty shall be twenty-five dollars ($25.00).

(c) Disabled parking violations, or parking in a space designated for disabled drivers without legal authority, shall be punishable by a fine of up to fifty dollars ($50.00). (1999 Code, § 15-706)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

events, and related activities and allowance for fees to be charged for such access.

16-120. Violations and penalty.

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; provided, that the provisions of this section shall not apply to the sale of vegetables or other products of the soil sold in market places especially provided for that purpose; provide further, that this section shall not apply to churches, schools, or other charitable organizations conducting special sales to raise money for charitable causes or for purposes intended to promote the general welfare of society.

Provided, it shall be lawful for the owners and/or lessees of properties abutting on sidewalks in the City of Maryville, which sidewalks have a minimum width of twelve feet (12'), to construct and/or place planter boxes on said sidewalks in front of their properties, providing the following conditions and/or specifications are strictly adhered to:

(1) Location. Planter boxes shall be set back at least four inches (4") from the face of the nearest curb. Planter boxes may be spaced according to the discretion of the owner within his property lines, except that not more than twenty-four feet (24') of continuous planters without a break will be permissible. The break between continuous planter boxes twenty-four feet (24') long shall not be less than four feet (4'). In no case shall the back of planter boxes extend more than twenty-four inches (24") from the face of the nearest curb.

(2) Construction. Planter boxes may be constructed of any material that is safe, durable, and pleasant to look upon. Location requirements limit the maximum outside-to-outside width of planter boxes to twenty inches (20"). Minimum outside-to-outside width shall be twelve inches (12"). Planter boxes shall be limited to twenty-six inches (26") in height. Not less than three feet (3') of each six feet (6') of length shall be left as open area at the base of the boxes so that surface water may drain to the street gutter, and so that debris will not accumulate against the base of the boxes. Planter boxes shall be constructed in such a manner as to provide sturdiness and immobility yet easy removal. Boxes shall be securely anchored in some manner to the sidewalk. The outside surface of all boxes shall be smooth and free of all protrusions that might be damaging or harmful to pedestrians.

(3) Removal. Planter boxes may be left in place on the sidewalk at all times, except that discontinued use of boxes for a period of excess of twenty-one (21) days will require removal. Planter boxes shall be removed at the direction of the police department during parades and excessively large crowds. Planter boxes allowed to deteriorate and become ugly shall be renovated or removed.

(4) Maintenance. Planter boxes shall be maintained in first class condition at all times. Flowers, shrubs or artificial flowers and/or shrubs shall

be kept in the boxes at all times. Boxes shall not be left empty even during a transition period for more than four (4) days. Flowers and/or shrubs shall be watered and tended in such a manner as to provide an attractive display at all times. The person responsible for the upkeep of the boxes shall maintain the openings at the base of the boxes and keep them free of accumulations of any kind.

(5) Approval. Approval from the engineering and public works director, or his/her designee, office shall first be obtained before any planter boxes are erected. A sketch of intended construction and arrangement of boxes shall be submitted to the engineering and public works director's office (to be kept on permanent file) before approval can be granted. Planter boxes shall conform to all specifications and requirements of this chapter.

(6) Responsibility. At the time the owner and/or lessee of property abutting on said sidewalk shall apply for a permit to construct and/or place planter boxes on sidewalks, he shall designate some particular person to assume and have responsibility of the care and maintenance of the planter boxes, and the applicant shall agree to conform to all requirements of these specifications. If for any reason the person originally designated to assume the responsibility for the care of the planter boxes should be relieved of this responsibility, then another person shall be designated by the owner and/or lessee to assume these duties, and the engineering and public works director, or his/her designee, of the City of Maryville shall be promptly notified of said change. The City of Maryville assumes absolutely no responsibility for the care and maintenance of planter boxes or their contents, nor does the city assume any responsibility for damage to planter boxes or their contents.

Any person, firm, or corporation constructing and placing planter boxes upon the sidewalks of the City of Maryville without first having obtained a permit from the city to do so, or having obtained a permit and not strictly complying with the specifications hereinabove set forth in constructing or placing planter boxes on the sidewalks, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in accordance with the general penalty clause of this code.

As set forth in this subsection, this section shall not apply to areas identified as being part of a city-sponsored special event or any other official community special event as determined by the city manager during the course of such festival or special event or in times immediately before and after the set-up of such festival or special event. In such instances, the use and occupancy of public streets, alleys, sidewalks and rights-of-way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials is permitted if the person or entity is expressly allowed or permitted by the city to occupy the public street, alley, sidewalk or right-of-way during a city-sponsored special event or a special event pursuant to terms and conditions set forth by the city. Such terms and conditions may include a reasonable charge by the city for use of the public street, alley, sidewalk, or right-of-way during the city-sponsored

special event. Obstruction of public streets, alleys, sidewalks or rights-of-way during the city-sponsored special event, or any other official community special event as determined by the city manager that is not permitted by the city, or use of such area in any way inconsistent with terms and conditions set forth for such use by the city is a violation subject to punishment under the general penalty clause. (1999 Code, § 16-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley, or sidewalk at a height of less than fourteen feet (14'). The engineering and public works director, or his/her designee, shall have the right to have vegetation trimmed that interferes with the flow of traffic. (1999 Code, § 16-102)

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his or her property any tree, hedge, billboard or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection with a public road. (1999 Code, § 16-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the city regulations and codes. (1999 Code, § 16-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place, or have placed, any banner or sign across any public street or alley except when expressly authorized by the city council. (1999 Code, § 16-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1999 Code, § 16-106)

16-107. 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. (1999 Code, § 16-108)

16-108. 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 snow or sleet, such occupants are required to

remove all accumulated snow and ice from the abutting sidewalk. (1999 Code, § 16-109)

16-109. Parades regulated. (1) Enforcement of other laws. Nothing contained in this section shall prohibit the authority of any officer to arrest or cite a person engaged in any act or activity granted under this section if the conduct of such person otherwise violates the laws of the state or ordinances of the city, or unreasonably obstructs the public streets and sidewalks of the city, or if such person engages in acts that cause, or would tend to cause, a breach of the peace as determined by the city and/or police department.

(2) Definitions. For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(a) "Block party." An outdoor gathering on a public street or portion of a public street which involves the closure or partial closure of a street.

(b) "Celebratory gathering." A gathering for the purpose of celebrating a person, place, holiday, even, and/or entity.

(c) "Concert." An outdoor event centered around amplified music or speech.

(d) "Event." A block party, celebratory gathering, concert, parade, public assembly, race or similar function as determined by the city manager, or his/her designee.

(e) "Parade." The march, procession, or motorcade consisting of persons, animals, or vehicles, or a combination thereof, upon the streets within the city which interferes with the normal flow or regulation of traffic upon the streets or sidewalks.

(f) "Permit." Permission to operate an event under this chapter which is issued by the City of Maryville as required by this chapter.

(g) "Public assembly." Any meeting, demonstration, picket line, rally, or gathering of people for a common purpose, which interferes with the normal flow or regulation of pedestrian or vehicular traffic.

(h) "Race." Any organized event where participants are physically competing.

(i) "Sidewalk." Any public area or way set aside or open to the general public for purposes of pedestrian traffic.

(j) "Street." Any place or way set aside or open to the general public for purposes of vehicular traffic, including any berm or shoulder parkway, right-of-way, median or common area, or median strip thereof, set aside for parking or for purposes of vehicular traffic.

(3) Permit required. Except as exempted herein, no person or persons shall engage in or conduct any block party, celebratory gathering, concert, parade, race, public assembly, or any other event involving the use or disruption of the public right-of-way or public property, streets or sidewalks within the

corporate limits of the City of Maryville, unless a permit is issued by the city manager, or his/her designee.

(4) Exceptions. This section shall not apply to the following:

(a) Funeral processions;

(b) A governmental agency acting within the scope and authority of its functions;

(c) Spontaneous events occasioned by news or affairs coming into public knowledge within three (3) days of such event, provided that the organizer thereof gives written notice to the city manager, or his/her designee, reasonable notice of such event;

(d) Businesses that have been approved for a grand opening or similar business oriented event governed under zoning or other provisions of this code;

(e) Any event involving less than ten (10) persons gathered together for a common purpose;

(f) A city sponsored event; and

(g) Students going to and from classes or participating in educational activities; providing such conduct is under the direction and supervision of proper school activities.

(5) Application for permit. (a) A person seeking a permit for an event as defined under this section shall file an initial application with the city manager, or his or her designee, using the initial special event application form provided by the city manager's office.

(b) For most events, the initial application for a permit shall be filed with the city manager at least seven (7) calendar days and not more than three hundred sixty-five (365) calendar days before the event is proposed to commence. The city manager may waive the seven (7) day filing period and accept an application filed within a shorter period if, after due consideration of the date, time, place and nature of the event the anticipated number of participants, and the city services required in connection with the event, the city manager determines that the waiver will not present a hazard to public safety and welfare. Applications for block parties, celebratory gatherings, races, concerts or other recreational type events must be filed at least ninety (90) days in advance of the event, which time period can also be waived in the discretion of the city manager. An applicant can contact the city manager's office to determine which deadline applies based on the type of event.

(c) Based on the type of event, either the chief of police or the city manager's office will be assigned to the event by the city manager. An additional application seeking additional and more specific information will be required after assignment to one (1) of these coordinators. Fees may be charged for recreational or entertainment oriented, or like, events to pay for extra services required of city personnel. Refundable deposits and an application may be required for use of city owned or controlled

facilities, including, but not limited to, the theater in the park for certain events.

(6) Standards for issuance. The city manager, or his/her designee, may issue a permit when, from consideration of the application and from such other information as may otherwise be obtained, he or she finds that:

(a) The conduct of the event will not require the diversion of so great a number of city employees to properly police the line of movement, and the areas contiguous thereto, as to prevent normal public safety of the city and its citizens;

(b) If applicable, the event is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;

(c) There are sufficient parking places near the beginning/ending of the event to accommodate the number of vehicles reasonably expected;

(d) No event application for the same time and location has already been granted, or has been received and will be granted;

(e) No event permit application for the same time but different location has already been granted, or has been received and will be granted that by combination thereof will disrupt city services or unreasonably inhibit traffic circulation; and

(f) The reasonable enjoyment of surrounding properties, businesses, and residences will not be disturbed in such a way as to cause an undue nuisance.

(7) Nondiscrimination. The city manager shall uniformly consider each application based upon its merits, and shall not discriminate in granting or denying permits under this chapter based upon political, religious, ethnic, race, disability, or gender-related factors.

(8) Grant or denial. (a) The city manager, or his or her designee, shall have a reasonable time to grant or deny the permit under this section. The length of time which is reasonable shall be determined by the type of use, the information supplied, the time of filing of the application, the extent of advance preparation a planning demonstrated and reasonably required, and the manner in which the application demonstrates whether or not the proposed use meets the standards and purposes of this section. In no event shall an application for a permit be denied less than four (4) days prior to the planned event.

(b) The city manager, or his/her designee, shall grant or deny the permit in writing, and the grant or denial shall be mailed, emailed, or delivered to the applicant.

(c) If the application for permit shall be denied, the denial shall set forth the reasons for such denial.

(d) If the application for permit is approved, the approval shall specify the date, time, and place for which the permit is approved, the

route or staging area (if for a parade), the number of city personnel required, and any other requirements deemed necessary by the city manager, or his/her designee.

(9) Revocation of permit. The city manager, and/or his or her designee, may revoke the permit and terminate all activities related to the event in the interest of public health and safety, or if a public nuisance is generated by the event as determined by the city manager and/or public safety personnel.

(10) No fund-raising events. No fund-raising activities shall occur on city owned or controlled property, streets, sidewalks or rights-of-way as part of any permitted event except as part of city sponsored events. This prohibition expressly prohibits money exchanging hands on city owned or controlled property during, or as a part of, a permitted event. (1999 Code, § 16-110)

16-110. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than ten (10) consecutive minutes. (1999 Code, § 16-111)

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. (1999 Code, § 16-112)

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. (1999 Code, § 16-113)

16-113. Abutting occupants not to cause flooding of streets, etc. It shall be unlawful for any person owning, and/or in possession of, any land or property abutting upon any of the streets, avenues, and alleys of the City of Maryville to excavate, fill, and/or change the surface grade of said land or property in such manner as will result in flooding or increasing the accumulation or flow of surface waters upon the streets, avenues, or alleys upon which said land or property abuts; provided, however that the provisions of this section shall not apply to properties abutting upon streets, avenues, or alleys which are improved by pavement, curbs, and gutters and in which storm sewers and catch basins have been installed to carry off surface waters running upon said streets, avenues, or alleys. (1999 Code, § 16-114)

16-114. Unauthorized depositing of sand, gravel, asphalt and other materials on city streets. (1) No truck, trailer or other vehicle shall

be driven or moved on any streets, roads, alleys or public ways within the City of Maryville, Tennessee, unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.

Any vehicle hauling sand, gravel, asphalt or any other similar material within the City of Maryville shall be loaded so that any loose material transported therein remains at least four inches (4") below the walls of said vehicle bed as measured at the front, back and sidewalls; but such load may be piled higher in the center of the bed of the truck.

(2) Loose materials shall include any substance which could spill, drop off, or blow away from the bed when the vehicle is in operation.

For the purpose of this code section, the City of Maryville Engineering and Public Works Department and the Tennessee Department of Transportation shall be authorized to deposit sand, salt, or other material necessary for snow and ice removal, and shall be authorized to spray water on city streets for purposes of sanitation.

(3) The party responsible for spilled material will be billed for cleanup if the City of Maryville cleans the spill.

(4) Any violation of this section shall be a misdemeanor, punishable by a fine of not more than fifty dollars ($50.00) for each offense. A charge of violation under this municipal code section shall be brought against the hauler whose vehicle is found in violation.

(5) As used in this section, the term "hauler" shall include both the owner and the driver of a vehicle, and both parties shall be jointly liable. Only one (1) fine shall be imposed on a hauler, regardless of a difference between ownership and operation. (1999 Code, § 16-115, modified)

16-115. Police department authorized to temporarily close city parks.[1] The Police Department of the City of Maryville, upon authorization of the city manager, the chief of police, or his designee, is authorized at any time to close temporarily any and all public city parks to vehicular and pedestrian traffic when, in the opinion of the city manager, the chief of police, or his designee, such action is necessary and justified for the public safety and for the general welfare of the city. It shall be unlawful for any person to violate any order of closing or any traffic control or signs posted by the police department as to any such closing of a public city park. (1999 Code, § 16-116)

16-116. Applications for street, way, or right-of-way closure, vacation, relocation, etc. (1) Application fee. Whenever a request is made by any person, firm, organization, or corporation with the exception of

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[1]Municipal code reference
Recreation and parks system: title 20, chapter 4.

governmental agencies to narrow, relocate, close, vacate or change the use of any street, way, or right-of-way within the corporate limits of Maryville, Tennessee, an initial filing fee in the amount of two hundred fifty dollars ($250.00) shall be paid to the City of Maryville, Tennessee. The filing fee may, upon proper showing of hardship or unusual circumstances, be waived if in the sole judgment of the city, and waiver is reasonable and justified. The fee shall be paid prior to the request being reviewed by the Maryville Regional Planning Commission and before they render a recommendation on the request to the Council of Maryville, Tennessee.

(2) Resubmission of request. No person, firm, organization, or corporation may resubmit a request to narrow, relocate, close, vacate or change the use of any street, way or right-of-way within the corporate limits of Maryville, Tennessee, until the passage of twelve (12) months from the original request and the filing of a new application fee in accordance with the subsection (1) of this section. Upon proper showing of hardship or unusual circumstances, the city may in its sole discretion waive this requirement. (1999 Code, § 16-117)

16-117. Golfing prohibited in public parks. The practice of golfing and the activities relating to the sport of golf shall be prohibited from being pursued within the boundaries of public parks located in the City of Maryville. (1999 Code, § 16-118)

16-118. Closure of city streets for festivals, fairs, concerts, special events, etc.[1] The city manager, in his/her reasonable discretion, shall be permitted to allow for the temporary closure of any public streets and sidewalks within the City of Maryville to allow for a festival, fair, concert, special event, etc. to be held on or around such streets and sidewalks. Such closure shall be allowed only provided that there is ample opportunity for re-routing traffic through the affected area in a reasonable manner. Such streets and sidewalks shall be closed pursuant to terms and conditions determined by the city manager. (1999 Code, § 16-119)

16-119. Restricted access to public streets, sidewalks, parks, or other publicly owned areas inside the city for festivals, fairs, concerts, special events, and related activities and allowance for fees to be charged for such access.[1] The city manager, in his/her reasonable discretion, after allowing for the temporary closure of public streets, sidewalks, parks or other city-owned areas within the City of Maryville to allow for a festival, fair, concert, special event, or related activity may allow for restricted access to such otherwise public areas by use of fencing, blockades, armbands, or other like

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[1]Municipal code reference

City-sponsored special event rules and regulations: title 20, chapter 3.

measures. Additionally, the city manager in his discretion may allow for reasonable fees to be charged for access to such festivals, fairs, concerts, special events, or related activities even though such events take place on public streets, sidewalks, parks or other city-owned areas in the City of Maryville. Consideration shall be given to allow sufficient and reasonable opportunity for those people who live or conduct business in the affected area to reasonably continue to do so. (1999 Code, § 16-120)

16-120. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. (1999 Code, § 16-121)

CHAPTER 2

EXCAVATIONS AND CUTS[1]

SECTION

16-201. Permit required. It shall be unlawful for any person, firm, corporation, public or private utility, association, or others to make any cut or excavation in any street, curb, alley, or public right-of-way, or to tunnel under any street, curb, alley, or public right-of-way in the city without having first obtained a permit, as herein required, and without complying with the provisions of this chapter; and it shall be unlawful to violate, or to vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, driveways, or other facilities in or under the surface of any public right-of-way may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided the permit could not reasonably and practicably have been obtained beforehand. The person shall therefore apply for a permit on the first regular business day on which the office of the engineering and public works director, or his/her designee, is open for business, and said permit shall be retroactive to the date when the work was begun; however, said requirement of this section may be waived by the engineering and public works director, or his/her designee. (1999 Code, § 16-201)

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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).

16-202. Applications. Applications for such permits shall be made to the engineering and public works director, or his/her designee, or such person designated by him/her 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, public or private utility, association, or others doing the actual excavating, and the name of the person, firm, corporation, public or private utility, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the engineering and public works director, or his/her designee, within five (5) working days of its filing. However, the requirements of this section shall not be construed to apply to the emergency requirement set forth in § 16-201. (1999 Code, § 16-202)

16-203. Fee. The fee for such permits shall be set by resolution as adopted by the Council of the City of Maryville. (1999 Code, § 16-203)

16-204. Deposit. It shall be the responsibility of the permittee to place with the City of Maryville a cash deposit either by the job or activity, or on an annual basis. The amount of the deposit shall be determined by the engineering and public works director, or his/her designee, based upon the size and nature of the permitted work within the right-of-way. The city may use the deposit to cover its cost should a failure of restoration work occur to the public right-of-way facility. (1999 Code, § 16-204)

16-205. Manner of excavating--barricades and lights. Any person, firm, corporation, public or private utility, association, or others making any excavation or tunnel shall do so according to the specifications and standards issued by the City of Maryville Engineering and Public Works Department. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by, or because of, the excavations 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. It shall be the responsibility of the permittee to adhere to the *Manual on Uniform Traffic-Control Devices*, current edition. (1999 Code, § 16-205)

16-206. Driveway cuts. No one shall cut, build, or maintain a driveway across a public right-of-way without first obtaining a permit from the engineering and public works director, or his/her designee. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. (1999 Code, § 16-206)

16-207. Restored streets and curbs. Any person, firm, corporation, public or private utility, association or others making any excavation or tunnel in or under any street, curb, alley or public right-of-way in the city shall backfill said street, curb, alley or public right-of-way and restore the same, including final surfacing, to city specifications and standards promptly upon the completion of the work for which the excavation or tunnel is made. Final surfacing may be done by the city at the expense of the entity for which the excavation or tunnel is made if requested, providing that city crews can schedule the work within twenty-four (24) hours of this request. If not, the entity will be required to place final surfacing in accordance with the requirements of this chapter. No excavation or tunnel in or under any street, curb, alley, or public right-of-way shall be permitted to obstruct the flow of traffic. In the event final resurfacing cannot be completed immediately after backfilling, the entity shall use temporary resurfacing materials such as cold mix or steel plate, or an approved detour around such opening or excavation which would aid the flow of traffic. The detour must be approved by the engineering and public works director, or his/her designee, prior to establishing any such detour. (1999 Code, § 16-207)

16-208. Perpetual care. Any person, firm, corporation, public or private utility, association, or others affecting a public way within the city, shall be responsible for any defects which occur to the public facility within the public way due to workmanship or materials. The cost for repairs shall be the responsibility of the utility owners of the facility which was placed within the City of Maryville public way. The city's engineering and public works department will be responsible for making the repairs or having the work contracted. The city may allow the utility to make the repair if requested to do so. Repairs shall be made in accordance with specifications furnished by the City of Maryville. (1999 Code, § 16-208)

16-209. Inspection. It shall be the responsibility of any person, firm, corporation, public or private utility, association, or others to call for an inspection of the permitted facility as required by the permit. The permit shall specify, based upon the size and scope of the permitted work, the type of inspection to be required. Should a full-time person be mandated, the cost of this service will be borne by the owner of the permitted work. The permittee is to be bound by the rules and regulations as specified on the permit. (1999 Code, § 16-209)

16-210. Specifications. Each permit shall be assigned a set of restoration specification standards. These specifications will be referenced by number and so indicated on the permit. It shall be the responsibility of the city engineering and public works department to maintain and provide the specification standards. The permittee may request a copy as required. The cost

of the specification shall be limited to reproduction cost and paid by the permittee. (1999 Code, § 16-210)

16-211. Insurance. In addition to making the deposit hereinbefore provided to be made, each person applying for such a permit shall file a certificate of insurance or other suitable instrument 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 the liability arising from completed operations. The amount of the insurance shall be prescribed by the risk manager in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury in effect shall not be in an amount less than one million U.S. dollars ($1,000,000.00) aggregate per occurrence for all types of insurance required. All certificates of insurance are required to have the City of Maryville added/endorsed on each certificate as "additional insureds." (1999 Code, § 16-211)

16-212. 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, or 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 engineering and public works director, or his/her designee. (1999 Code, § 16-212)

16-213. Supervision. The engineering and public works director, or his/her designee, shall inspect excavations and tunnels being made in or under any public street, curb, alley, or other public right-of-way in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to the inspector before the work of refilling any such excavation or tunnel commences, and said work may not commence until the inspector arrives at the site or gives verbal permission to proceed. (1999 Code, § 16-213)

16-214. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense. (1999 Code, § 16-214)

CHAPTER 3

STREET ACCEPTANCE

SECTION

16-301. Conditions upon which streets will be accepted by the municipality for maintenance. The municipality will accept for maintenance and incorporate into its street system only those roads and streets which comply with the requirements of the subdivision regulations of the Maryville Planning Region.[1] (1999 Code, § 16-301)

16-302. Must be for public use. Before the municipality will accept for maintenance and incorporate into its street system any road and/or street, the owner or owners thereof shall dedicate said road or street for public use in the manner provided by law. Said road and/or street shall meet or exceed the municipality's street and road specifications to qualify for public dedication. (1999 Code, § 16-302)

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[1]These regulations were adopted by the Maryville Regional Planning Commission and a copy of these regulations is of record in the city recorder's office.

CHAPTER 4

PROPERTY NUMBERING

SECTION

16-401. Uniform numbering system. A uniform system is hereby established for numbering properties and private buildings fronting on all public and private streets, avenues, boulevards, roads, lanes, alleys, and other ways in the City of Maryville. (1999 Code, § 16-401)

16-402. Assignment of street numbers. Property numbers for all properties or parcels of land, dwelling units, or places of business, shall be assigned by the Blount County Communication Center in accordance with its policies. (1999 Code, § 16-402)

16-403. Posting of designated street address. (1) Each principal building shall display the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one (1) business or family dwelling unit, each separate front entrance may display a separate number.

(2) Numerals indicating the official numbers for each principal building or each front entrance to such building shall be placed either over or at the side of the main entrance of said building, or upon the front of any porch or stoop thereof, or over or at the side of any gateway leading thereto, or upon the steps thereof in such manner that the same may be plainly seen and distinguishable from the street on which the property is located and in such a manner that the same shall not be hidden from view by any trees or shrubs or other obstructions.

All units that do not allow ready or easy visibility of its address numerals from the street due to excessive set back, shrubbery, or color shall place a parcel identification marker near the entrance or driveway to the parcel. Such identification marker shall contain the parcel's designated address.

(3) All building numbers displayed shall be permanent, legible figures not less than two and one-half inches (2-1/2") nor more than five inches (5") high and of a color contrasting to the building background.

(4) It shall be the duty of the owner or occupant, or person in charge of each principal building upon affixing the new numbers to remove any

different number which might be mistaken for, or confused with, the number assigned to said structure by the building inspector, or his designee.

(5) It shall be permissible to have property address numerals painted on the curb in front of a lot. Such curbside designations shall be positioned in front of the unit or between the driveway and half the distance of the frontage along the public street.

All painted numerals displayed on curbs shall be permanent, legible blue or black colored numerals, which are no more nor less that four inches (4") high, on a white contrasting background. The background shall be no more nor less that six inches by four inches (6" x 4"). All paint used shall be of alkyd resin, type F traffic paint. Numerals shall have glass beads or similar materials for reflective purposes. These standards are in accordance with the attached sheet designated Attachment "A," which is made a part of this chapter.[1]

Painted curbside numerals shall not replace the required assigned numerals which are to be placed on the front entrance to all principal buildings as provided in this section. Further, painted curbside numerals shall not replace parcel identification markers which are required by this section if a unit is not easily visible from the street due to an excessive set back. (1999 Code, § 16-403)

16-404. New buildings and administration. (1) The Blount County Communication Center shall assign the number to each lot or tract which may hereafter be platted, and shall indicate the same upon an approved final subdivision plat.

(2) No building permit shall be issued for any principal building until the owner or developer has procured from the Blount County Communication Center, or his designee, the official number of the premises. Final approval of a certificate of occupancy of any principal building erected or repaired after the adoption of this chapter shall be withheld until permanent and proper numbers have been displayed in accordance with § 16-403 of this chapter. (1999 Code, § 16-404)

16-405. Violations and penalty. In the event that an owner, occupant, person, or corporation responsible for any parcel or unit or building refuses to comply with the terms herein stated by failing to affix the number assigned shall be deemed guilty of a violation of the municipal code and upon conviction shall be subject to a fine of not more than fifty dollars ($50.00). Each day the unit of property is in violation of this chapter shall constitute a separate offense. (1999 Code, § 16-405)

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[1]Attachment A is available in the city recorder's office.

CHAPTER 5

MAINTENANCE OF DRIVEWAY DRAINAGE CULVERTS

SECTION

16-501. Maintenance of residential driveway drainage culverts. Where residential driveways cross street side drainage ditches requiring drainage culverts, it shall be the responsibility of the property owner served by the driveway to maintain the drainage culvert in such a manner as to ensure an uninterrupted flow through the drainage culvert at all times. In the event of the drainage culvert being declared unusable by the engineering and public works director, or his/her designee, the owner of the property served by the driveway shall be responsible for purchasing a replacement drainage culvert. The installation of the replacement drainage culvert will be made by the City of Maryville. The engineering and public works director, or his/her designee, shall determine drainage culvert location, alignment, material, size and length. (1999 Code, § 16-501)

16-502. Maintenance of multi-family residential, commercial and industrial driveway drainage culverts. Where multi-family residential, commercial and industrial driveways cross street side drainage ditches requiring drainage culverts, it shall be the responsibility of the property owner served by the driveway to maintain the drainage culvert in such a manner as to ensure an uninterrupted flow through the drainage culvert at all times. In the event of the drainage culvert being declared unusable by the engineering and public works director, or his/her designee, the owner of the property served by the driveway shall be responsible for purchasing a replacement drainage culvert, and for the installation of the drainage culvert. The engineering and public works director, or his/her designee, shall approve drainage culvert location, alignment, material, size and length. (1999 Code, § 16-502)

16-503. Time limitation to make repairs on drainage culverts. In the event a property owner is told by the engineering and public works director, or his/her designee, that maintenance or replacement of the drainage culvert is required, the owner shall have sixty (60) days from the time notified by the engineering and public works director, or his/her designee, to complete the required work. However, if the public welfare and health are endangered by a condition which needs to be corrected, the engineering and public works

director, or his/her designee, shall specify a time period of less than sixty (60) days in which the work shall be completed. (1999 Code, § 16-503)

CHAPTER 6

SKATEBOARDING AND OTHER SIMILAR ACTIVITIES

SECTION

16-601. Skateboards, roller blades, etc. prohibited in certain areas. It shall be unlawful for any person utilizing or riding upon any skateboard, roller blades or any similar device to ride or move about in or on any public property in the downtown area of the City of Maryville, or on the stage at the theater in the park or on the city's bicentennial monument. Roller blades are not prohibited on the greenway trail in these areas. Futhermore, no person shall use a skateboard, roller blades, or similar device outside of the downtown area in a manner which creates a nuisance. For the purpose of this chapter "nuisance" is defined as any activity which:

(1) Under the circumstances reasonably threatens injury to persons or property;

(2) Creates an obstruction or presents a hazard to the free and unrestricted use of public property by pedestrians or motorist; or

(3) Generates loud or unreasonable noise. (1999 Code, § 16-601)

16-602. Definitions. For the purposes of this chapter, the following words shall have the meanings ascribed:

(1) "Downtown area" means the beginning at a point, said point being at the intersection of the southeastern right-of-way of Broadway Avenue with the southeastern right-of-way of South Cates Street, as found on the Blount County Tax Map 57-E group D; thence in a southeasterly direction one hundred eighty feet (180') more or less to a point, said point being common to the intersection of the southeastern right-of-way of South Cates Street with the northwestern right-of-way of Church Street; thence in a northeasterly direction nine hundred thirteen feet (913') more or less along the northeastern right-of-way of Church Street to a point, said point being the intersection of the northwestern right-of-way of Church Street with the northeastern right-of-way of Cusick Street as found on Blount County Tax Map 58-A; thence in a northeasterly direction sixty feet (60') more or less and crossing the right-of-way of Cusick Street to a point, said point being common to the northwestern right-of-way of Church Street and the northeastern right-of-way of Cusick Street; thence continuing in a northeasterly direction eight hundred sixty-seven feet (867') more or less along the northeastern right-of-way of Church Street to a point, said point being common to the northeastern right-of-way of Church

Street and parcel 29 of group A on the Blount County Tax Map 58-A; thence in a northeasterly, northerly, northwesterly and northerly direction five hundred eighty-seven feet (587') more or less along the western right-of-way of Church Street to a point, said point being the intersection of the western right-of-way of Church Street with the northeastern right-of-way of East Harper Avenue; thence in a southwesterly direction two hundred seventy-eight feet (278') more or less along the northeastern right-of-way of East Harper Avenue to a point, said point being the intersection of the southeastern right-of-way of East Harper Avenue with the northeastern right-of-way of New Street; thence in a southwesterly direction sixty feet (60') more or less and crossing New Street to a point, said point being common to the southwestern right-of-way of New Street and its intersection with the southeastern right-of-way of East Harper Avenue; thence in a southwesterly direction one thousand, seventeen feet (1,017') more or less along the southeastern right-of-way of East Harper Avenue to a point being common to the southeastern right-of-way of East Harper Avenue with the northeastern right-of-way of Cusick Street; thence in a southwesterly direction sixty feet (60') more or less and crossing Cusick Street to a point, said point being common to the southeastern right of West Harper Avenue with the northwestern right-of-way of Cusick Street; thence in a southwesterly direction six hundred eighty-two feet (682') more or less along the southeastern right-of-way of West Harper Avenue to a point, said point being common to the southwesterly right-of-way of West Harper Avenue and the northern most point of parcel 9 as found on Blount Tax Map 57-D group D; thence in a southwesterly and southerly direction three hundred five feet (305') more or less along the southwestern right-of-way of West Harper Avenue and the eastern right-of-way of Cates Street to a point; said point being common to the eastern right-of-way of Cates Street and the northwestern right-of-way of Broadway Avenue; thence in a southeasterly direction sixty-five feet (65') more or less and crossing Broadway Avenue to a point, said point being the point of beginning.

(2) "Public property" means any property owned or maintained by the City of Maryville, Blount County or any public utility within the geographical boundaries of the City of Maryville.

(3) "Roller blades" means any footwear or device which may be attached to the foot or footwear, to which wheels that are "in line" are attached, and where such wheels may be used to aid the wearer in moving or propulsion.

(4) "Skateboard" means a board of any material, which has wheels attached to it and which, if propelled or moved by human, gravitational, or mechanical power, and to which there is not fixed any device or mechanism to turn or control the wheels. (1999 Code, § 16-602)

16-603. <u>Exemptions from this chapter</u>. Any device designated, intended, and used solely for the transportation of infants, the handicapped, or incapacitated persons, devices designed, intended, and used for the transportation of merchandise to and from the place of purchase and other

wheeled devices, when being used for either of these purposed shall be exempt from this chapter. Furthermore the city council may, by resolution, suspend the enforcement provisions of this chapter to accommodate special events when so requested by the event organizer. (1999 Code, § 16-603)

16-604. Violations and penalty. Any person violating or interfering with the enforcement of the provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined under the general penalty clause of this municipal code. (1999 Code, § 16-604)

CHAPTER 7

ACTIONS OF PEDESTRIANS ON CITY STREETS

SECTION

16-701. Application of chapter. Pedestrians shall be subject to traffic control signals at intersections as provided in this chapter. At all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter. (1999 Code, § 16-701)

16-702. Right-of-way in crosswalks. (1) When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way (slowing down or stopping if need be to so yield) to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling; or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(2) Whenever a vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (1999 Code, § 16-702)

16-703. When use of marked crosswalks required. Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk. (1999 Code, § 16-703)

16-704. Use of right half of crosswalk. Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (1999 Code, § 16-704)

16-705. Crossing at other than crosswalks. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within

an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway. (1999 Code, § 16-705)

16-706. Pedestrian tunnels or overhead crossings. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway. (1999 Code, § 16-706)

16-707. Walking on roadways. (1) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon the adjacent roadway except as may be necessary to lawfully cross said roadway.

(2) Where sidewalks are not provided, any pedestrian walking along and upon a street shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. (1999 Code, § 16-707)

16-708. Duty of drivers with regard to pedestrians. Notwithstanding the provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (1999 Code, § 16-708)

16-709. Special provisions for pedestrians guided by dog or carrying white cane. (1) No person, unless totally or partially blind or otherwise incapacitated, while on any public street or thoroughfare, shall carry in a raised or extended position any cane or similar walking stick colored white or white tipped with red.

(2) Whenever any pedestrian guided by a guide dog or carrying in any raised or extended position a cane or similar stick white in color or white tipped with red shall undertake to cross any public street or thoroughfare, the driver of each and every vehicle approaching such pedestrian shall bring such vehicle to a complete stop and, before proceeding, shall take all precautions necessary to avoid injuring such pedestrian. Nothing in this section shall be construed as making any person totally or partially blind or otherwise incapacitated guilty of negligence per se or contributory negligence in undertaking to cross any street or thoroughfare without being guided by a trained dog or carrying a cane or stick of the type herein mentioned. (1999 Code, § 16-709)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER

CHAPTER 1

SOLID WASTE AND REFUSE COLLECTION

SECTION

17-101. Definitions. (1) "Bulk container" means a "Class II" or "Class III" or "Class IV" container.

(2) "Bulk rubbish" means wooden and cardboard boxes, crates, furniture, bedding, and other refuse items which, by their size and shape, cannot be readily placed in city-approved containers.

(3) "Class I container" means a City of Maryville roll out container on wheels with a capacity of eighty to one hundred (80–100) gallons that is rolled to the street by the user to a point of collection designated by the city.

(4) "Class II container" means a dumpster container with a capacity of four (4) cubic yards that remains at the point of collection designated by the city.

(5) "Class III container" means a dumpster with the capacity of six (6) cubic yards that remains at the point of collection designated by the city.

(6) "Class IV container" means a dumpster with the capacity of eight (8) cubic yards that remains at the point of collection designated by the city.

(7) "Commercial establishment" means any business, industrial, institutional or agricultural establishment, office or professional building,

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

shopping center, multiple business complex, commercial housing facility, church, hospital, club or other similar organization.

(8) "Commercial solid waste" means solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment, office or professional building, shopping center, multiple business complex, commercial housing facility, church, club or other similar organizations.

(9) "Construction waste" means materials from construction, demolition, remodeling, construction site preparation, including, but not limited to, rocks, bricks, dirt, debris, fill, plaster, guttering, and all types of scrap materials.

(10) "EPW director" means the as engineering and public works director, or his/her designee.

(11) "Ferrous metals" means appliances (including, but not limited to, refrigerators, freezers, stoves, and air conditioners), metal roofing and siding, and other metal items.

(12) "Hazardous waste" as defined by the State of Tennessee.

(13) "Multi-family residential facility" means a structure or grouping of structures, apartment complex, or mobile home park which contains more than four (4) dwelling units.

(14) "Multiple business complex" means any group of more than one (1) business located on one (1) tract of property.

(15) "Refuse" means solid waste.

(16) "Residential garbage" means all household wastes, including, but not limited to, food waste, bottles, wastepaper, tin cans, clothing, mechanical parts, small dead animals, and rubbish, excluding tree limbs, shrubbery trimmings, leaves, construction waste, human or animal excreta or fecal matter, large dead animals, and "bulk rubbish," and garbage resulting from the operation and maintenance of dwelling units, excluding commercial housing facilities.

(17) "Service level" means the maximum number of times or frequency that containers are serviced.

(18) "Single-family residential facility" means a single structure containing four (4) dwelling units or less and not operated as a part of a commercial housing facility.

(19) "Solid waste" means unwanted or discarded waste materials in a solid or semi-solid state, including, but not limited to, residential garbage, ashes, street refuse, rubbish, dead animals, animal and agricultural wastes, yard wastes, special wastes, industrial wastes, and demolition and construction wastes, excluding "bulk rubbish" and hazardous or infectious wastes.

(20) "Yard wastes" means grass clippings, leaves, tree and shrubbery trimmings, and other related yard waste materials. (1999 Code, § 17-101, modified)

17-102. Responsibility for administration. (1) The EPW director shall have the authority to make and modify regulations as necessary concerning days of collection, distribution and location of containers, and such other matters pertaining to the collection, transporting and disposal of solid waste; provided, such regulations are not in violation of the provisions of this chapter.

(2) The EPW director may levy charges for cost of services that exceed authorized level of services as contained in this chapter; provided, such cost is not in conflict with this chapter.[1]

(3) The EPW director shall, from time to time, review the city's cost of the container and set a purchase fee not to exceed actual cost to the city.

(4) The EPW director shall be responsible for the enforcement of this chapter. (1999 Code, § 17-102)

17-103. Single-family residential housing facilities, containers, and collection procedures. (1) Containers--ownership: types.

(a) Ownership. All owners of single-family residences within the City of Maryville are to pay for an initial garbage container provided by the city. The container will be dedicated to that specific address.

(b) Types. Owners of single-family residences will be responsible for providing and/or replacing lost containers (maximum of four (4)). The type of container/containers provided and its/their location for collection will be determined by the EPW director, and his/her decision, shall be based primarily on operational cost effectiveness for the city. It shall be the responsibility of the residential housing facility owner to control the use of city-owned containers assigned for the use of the occupants and to manage allotted capacity. A Class I container shall be authorized for each house, apartment, mobile home or other living unit of a residential housing facility. Owners of residential housing facilities containing more than one (1) unit may be required to supply Class II, or Class III, or Class IV containers, and adjacent residential housing facilities may be required to jointly use a Class II, or Class III, or Class IV container, whichever is more cost effective for the city.

(2) Collection procedures; general regulations. (a) Residential garbage intended for collection by the city shall be placed in a Class I container. Frequency of collection for residential housing facilities is one (1) time per week. If more capacity is needed above which the city assigns, the owner shall provide additional approved containers at his expense, make other disposal arrangements, or convert to Class II, or Class III, or Class IV containers. The customer may pay a fee for extra

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[1]The City of Maryville establishes the purchase price of a Class I roll out container, as determined by the EPW Director.

containers. Extra containers may not be moved outside of city, but may be moved to a new residence inside city.

(b) A Class I container must be paid for by the builder, developer, contractor, or purchaser at the time that building permits are issued.

(c) On the scheduled day of collection, all roll out containers must be placed at the edge of the street, curb or other designated location approved for pick up. Containers shall be placed in such a location and manner as to be readily accessible with city collection equipment. Containers must not be placed in a location for pick up so as to interfere with overhead power lines, fire hydrants, utility poles, mailboxes, tree branches, parked cars, vehicular traffic, or in any other way that would constitute a public hazard or nuisance.

(d) Containers shall be placed for collection no earlier than 5:00 P.M. on the day before collection, and no later than 6:00 A.M. on the day of collection. Roll out containers are not permitted to remain at the curbside collection point later than 7:00 P.M. on the day of collection.

(e) All roll out containers shall remain on the property of the city, and shall remain at the property address where delivered, regardless of fees paid.

(f) All containers serviced by the city collection equipment which are damaged, destroyed, or stolen through neglect, improper use or abuse by the occupant/property owner shall be replaced or repaired at the expense of the occupant/property owner, whichever, in the opinion of the city, is most cost effective.

(g) Responsibility to keep the container clean is the property owner's.

(h) Leaving containers at the curbside except during the period specified for collection, or not otherwise secured, constitutes neglect by the occupant/property owner.

(i) Containers which are damaged or destroyed by the city collection equipment in the course of routine services, or through normal wear and tear which is through no fault of the user, shall be repaired or replaced at no charge to the user.

(j) Bulk rubbish and construction waste, as defined in § 17-101(4) and (5), are hereby prohibited from being placed in the Class I roll out containers.

(k) All garbage must be placed in plastic bags suitable for garbage. Bags must be of adequate quality. (1999 Code, § 17-103)

17-104. <u>Commercial collection procedures; containers; general regulations</u>. (1) Commercial solid waste intended for collection by the city shall be placed in a city-approved container. The owner or developer of all new commercial establishments including multi-family facilities within the City of

Maryville shall, at their expense prior to their first pickup, supply a city-approved commercial waste container suitable for handling the volume and type of waste generated. The container size and type shall be determined by the EPW director. The container will be replaced or maintained at the expense of the owner of the commercial establishment.

(2) Commercial establishments shall provide containers based on the amount of solid waste generated and cost effectiveness for city collection operations. These containers will be serviced by the city as outlined in subsections (a) and (b) below:

(a) Service level for Class II containers and Class III containers shall be one (1) time per week pickup.

(b) Service level for Class IV containers shall be as needed but not to exceed three (3) times per week free pickup. The same shall apply to establishments with two (2) or more containers; provided, containers are located in the same general area. The engineering and public works director, or his/her designee, shall have the authority to negotiate the cost of service needed above the maximum three (3) times per week free service.

(3) Bulk containers shall, at all times, be kept in a place easily accessible to city equipment. No service shall be given to those establishments permitting objects, obstructions, or vehicles to hinder, in any way whatsoever, the servicing of said containers. Containers will not be serviced in any other location than what is approved by the EPW director.

(4) The EPW director may establish a special collection district due to the density of commercial facilities, such as the downtown area, and provide a unified service for said district. The EPW director shall submit the district boundaries to the Maryville Regional Planning Commission and the city council for approval.

(5) The owner/user of all bulk containers shall be responsible for the sanitary maintenance, structural maintenance and the replacement of said containers except as otherwise provided in this chapter.

(6) The EPW director may, due to high volume/high density of solid waste generated, approve a container/system that would require special handling by other than city-owned equipment at the owner's expense, if it is determined to be in the cost effective interest of the city or the city is unable to provide suitable services.

(7) Nothing in this section shall prohibit commercial establishments from removing their own solid waste or from contracting with a private collector for such removal; provided, said private collector shall have a valid permit or license to do business within the city.

(8) A commercial establishment may elect to use the Class I residential roll out container system and receive service the same as in residential collection. In the event an owner of a commercial establishment elects the residential roll out container system, then at a future date wishes to change to

a Class II, or Class III, or Class IV container, he shall pay the cost of such container as required for new establishments.

(9) The owner or developer of commercial, industrial, or institutional facilities, such as regional malls, shopping centers, hospitals, medical centers, commercial housing facilities, and other major developments, shall be required to show methods of handling solid waste and locations of all solid waste containers and handling equipment on an approved site plan to the EPW director prior to beginning construction.

(10) Dumpsters no larger than eight (8) yards and no smaller than four (4) yards are allowed.

(11) If customer uses a slant lid dumpster, they must not overload the dumpster and must make certain lids are shut properly.

(12) The city is not responsible for damage of dumpsters through customer neglect (overloading). (1999 Code, § 17-104)

17-105. Premises to be kept clean. (1) It shall be unlawful for any person or persons owning, leasing, occupying or having control of property within the corporate limits, regardless of whether such property is vacant or contains structures thereon, to permit the accumulation of residential garbage, refuse, hazardous waste, or other undesirable materials thereon. It is the responsibility of the individual(s) having control of residential housing facilities, commercial housing facilities, and commercial establishments to maintain the container(s) and the surrounding area in a clean, neat and sanitary condition at all times.

(2) The owner of property is responsible to maintain driving surface, gates, screening and dumpster pad. (1999 Code, § 17-105)

17-106. Prohibited substances and practices. (1) The following substances are hereby prohibited and shall not be deposited in containers serviced by the city garbage collection equipment:

(a) Flammable liquids, solids or gases, such as gasoline, benzene, alcohol or other similar substances.

(b) Any material that could be hazardous or injurious to city employees or which could cause damage to city equipment.

(c) Construction waste, as defined in § 17-101.

(d) Hot materials such as ashes, cinders, etc.

(e) Human or animal waste shall be prohibited being placed in residential garbage containers unless it is placed and secured in a plastic bag or suitable paper bag.

(f) Infectious wastes as classified by the following:

(i) Isolation wastes. Wastes contaminated by patients who are isolated due to communicable disease as provided in the U.S. Centers for Disease Control *Guidelines for Isolation*

Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings (2007).

(ii) Cultures and stocks of infectious agents. Cultures and stocks of infectious agents, and associated biological cultures and stocks of infectious agents, including specimen cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, waste from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures.

(iii) Human blood and blood products. Waste, human blood and blood products such as serum, plasma, and other blood components.

(iv) Pathological wastes. Pathological wastes, such as tissues, organs, body parts, and body fluids that are removed during surgery and autopsy.

(v) Discarded shams. All discarded sharps (e.g., hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) used in patient care, medical research or industrial laboratories. Discarded sharps from a single-family residential application shall be placed in puncture proof plastic resealable containers.

(vi) Contaminated animal carcasses, body parts, and bedding. Contaminated animal carcasses, body parts and bedding of animals that were intentionally exposed to pathogens in research, in the production of biologicals or in the in vitro testing of pharmaceuticals.

(vii) Facility-specified infection wastes. Other wastes determined to be infectious by a written facility policy.

(g) Human/animal remains shall be prohibited being placed in residential garbage containers.

(h) If the customer forces/wedges items in a dumpster not allowing items to empty properly, the items must be removed/loosened by the customer.

(2) The following practice is prohibited and it shall be unlawful for any person to move, remove, upset, scatter, tamper with, use, carry away, deface, mutilate, destroy, damage or interfere with the residential garbage container. (1999 Code, § 17-106, modified)

17-107. <u>Yard waste, bulk rubbish, and other refuse</u>. (1) <u>Yard waste-brush collection</u>. (a) Placement of brush for collection. All brush (tree limbs, shrubbery and hedge trimmings, etc.) must be placed on the owner's property at the edge of a street or serviceable alley easily accessible with city collection equipment to be picked up during

bulk/brush collection zone. No item of yard waste placed out for disposal shall be placed on top of water/gas meters or valves, piled against utility poles, guy wires, fences or structures, phone boxes, electric boxes, invisible fencing, or any item which could be damaged by collection equipment.

(b) Piling of brush for collection. All brush shall be neatly stacked in an unscattered manner. Small trimmings should be stacked on top of larger ones with butt ends pointed in the same direction. Brush collections shall not be made where it is loosely scattered. A notice shall be given to the resident that collection cannot be made and the reason why it cannot be made.

(c) Separation of items to be collected. Brush, yard wastes, ferrous metals, and bulk rubbish must be placed in separate piles for the purpose of collection. Bricks, rock, dirt, shingles, concrete and liquids shall not be collected, nor shall said items be mixed with other items to be collected.

(d) Length and size of brush. All tree limbs longer than twelve feet (12') in length must be cut in half and stacked as required. If collection cannot be made due to size, a notice will be given to the resident with explanation.

(e) Grass clippings and leaves. Except during seasonal leaf collection as outlined in subsection (5) below, all leaves and grass clippings collected by the city shall be placed in plastic bags or other disposable containers.

(2) Refuse generated through private enterprise. The City of Maryville shall not be responsible for the collection and disposal of construction waste, bulk rubbish, or any other forms of solid waste generated or produced by contractors or persons doing work for profit or personal gain. Nor will any such collection of refuse be made from lot or land clearing projects including remodeling or alterations of homes or businesses, or such other private projects or improvements.

(3) Bulk rubbish (junk) service. (a) Except during a special city/county wide clean up campaign, bulk rubbish service will be performed on the same schedule as brush collection. Bulk rubbish shall not be placed at the street for collection more than three (3) days before the zone is to be picked up.

(b) Tires must be separated from rims. A maximum of six (6) tires can be collected in one (1) month pickup. A maximum of twelve (12) tires can be collected per year.

(c) It shall be unlawful for any person, firm, partnership, corporation, syndicate, joint stock company, association or other group operating as a unit, owning, leasing, occupying or having control of property within the corporate limits of the City of Maryville, to violate, or permit to be violated, the requirements of this code section.

(d) Excessive amounts of brush or junk will not be picked up.

(4) The EPW director shall have the authority to establish a reasonable self-help program for residents who have unusual amounts of refuse, or unusual circumstances which would prevent hauling or disposal for themselves.

(5) Seasonal leaf collection. Fall leaf collection will begin between October 15 and November 15 depending on climatic conditions and will continue through January. The engineering and public works department will schedule a two (2) week period in early spring in order to collect leaves from late shedding trees. The schedule will be announced through the local news media. Following this two (2) week period, all leaves must be placed in plastic bags for collection. (1999 Code, § 17-107)

17-108. Violations and penalty. (1) Any person violating any of the provisions of this chapter (with the exception of § 17-106(1)(f)) shall be served by the city with written notice stating the nature of the violation and provide satisfactory immediate correction thereof. The offender shall, within the period of time stated in such notice, permanently cease and correct all violations.

(2) Any person who shall continue any violation beyond the time provided for in § 17-108(1) shall be guilty of a misdemeanor and shall be punishable under the general penalty clause of this code.

(3) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

(4) Any person violating § 17-106(1)(f) of this chapter shall be served by the city with a written notice stating the nature of the violation and provide immediate correction. If a correction has not been made within the specified time limit, such person shall be in violation of this chapter and may:

(a) Be charged and tried in city court for such violation and punished under the general penalty clause of this code; or

(b) The State of Tennessee Division of Solid Waste may be notified and requested to assume the responsibility for the enforcement of applicable state statutes involving such violation or violations. (1999 Code, § 17-108)

CHAPTER 2

HAZARDOUS WASTES AND SUBSTANCES

SECTION

17-201. Definitions. For the purposes of this chapter, the following words and phrases shall have the following meanings:

(1) "Hazardous substance" means any substance, combination of substances or mixtures defined as a "hazardous substance" in 40 CFR, chapter 1, part 116 which is not specifically excluded under this chapter of the Maryville Municipal Code.

(2) "Hazardous substance disposal site" means any chemical waste landfill or incinerator used to dispose of hazardous substances.

(3) "Hazardous waste" means any substance, combination of substances or mixtures defined as "hazardous waste" in 40 CFR, chapter 1, part 261, subpart A, § 261.3 which is not specifically excluded under § 261.4 (b) under said title or this chapter of the Maryville Municipal Code. The provisions of 40 CFR, part 261, subpart A, §§ 261.2, 261.3 and 261.4 and corresponding sections of subparts C and D and appendices cited therein, which define, describe, and identify hazardous waste, are hereby incorporated by reference into this section and made a part hereof the same as if each were set forth fully herein. All subsequent amendments to said provisions of subparts C and D and appendices cited therein which define, describe, and identify "hazardous waste," and the sections of subpart B specifically delineated herein, automatically become a part of this section as of the effective date of each amendment, subject to the provisions of this section. "Hazardous wastes" do not include chemical substances or mixtures listed in part I(A)(6) or any radioactive material.

(4) "Person" means any natural or legally created artificial person including any individual, corporation, partnership, or association. "Person" includes any individual partnership, association or corporation engaged in the transportation of passengers or property, as common, contract, or private carrier, or freight forwarder, as those terms are used in the Interstate Commerce Act, as amended, being 24 Stat. 379, Pub. L. No. 49-104.

(5) "Radioactive material" means any material, or combination of material, in which spontaneously emits ionizing radiation. Materials in which the estimated specific activity is not greater than 0.002 microcuries per gram of

material, and in which the radioactivity is essentially uniformly distributed, are not considered to be radioactive materials. (1999 Code, § 17-201, modified)

17-202. Disposal of hazardous waste. (1) No person shall knowingly discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake or pond, watercourse or ditch, into any pit or excavation, or into or atop of any aquifer, any hazardous waste and/or hazardous substances within the corporate limits of the City of Maryville.

(2) No person shall knowingly cause any other persons, by contract or otherwise, to discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer, or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any hazardous waste and/or hazardous substance within the corporate limits of the City of Maryville.

(3) No person shall negligently discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer, or culvert, into any lake, pond, water course or ditch, or into any pit or excavation, or into or atop of any aquifer, any hazardous waste and/or hazardous substance within the corporate limits of the City of Maryville. (1999 Code, § 17-202)

17-203. Exemptions. (1) The provisions of this chapter shall not apply to the storage or disposal of hazardous waste and hazardous substances in any hazardous substance disposal site that is in compliance with applicable standards of either the United States Environmental Protection Agency or the Tennessee Department of Health.

(2) A person may petition the city council, or its designee, for an exemption from the requirements of this chapter, and the city council, or its designee, may grant, in writing, an exemption where not precluded by state or federal law, if it finds that:

(a) Unreasonable risk of injury to health or environment would not result; and

(b) The best interest of the city would be served by granting an exemption.

(3) Any hazardous substance (e.g., herbicide, pesticide) being used in accordance with manufacturer's recommendations. (1999 Code, § 17-203)

17-204. Inspections. The fire chief, fire marshal, or his/her designated representative, any law enforcement officer, or building, housing, or zoning inspector shall have the authority to inspect all structures and premises, as

often as may be necessary for the purposes of ascertaining, or causing to be corrected, any condition which may be a violation of this chapter, or otherwise enforcing any of the provisions of this chapter. (1999 Code, § 17-204)

17-205. Right of entry. Whenever necessary for the purpose of enforcing the provisions of this chapter, or whenever the fire chief, fire marshal, or his/her designated representative, any law enforcement officer, or any building, housing or zoning inspector has reasonable cause to believe that there exists in any structure, or upon any premises, any condition(s) which constitutes a violation of this chapter, said officials may enter such structure or premises at all reasonable times to inspect the same, or to perform any duty imposed upon any of said respective officials by law; provided, that if such structure or premises be occupied, he shall first present proper credentials and request entry. If such entry is refused, the official seeking entry shall recourse to every remedy provided by the law to secure entry. (1999 Code, § 17-205)

17-206. Injunctive relief. Violation of the provisions of this chapter shall constitute a public nuisance. The city attorney shall have the authority to commence any action in a court of competent jurisdiction to enjoin the actions of any person who violates any of the provisions of this chapter. (1999 Code, § 17-207)

17-207. Violations and penalty. (1) Any person who knowingly or negligently violates any of the provisions of this chapter shall be subject to a civil penalty of fifty dollars ($50.00) for each such violation.

(2) If any violation of the provisions of this chapter is a continuing one, each day of such violation shall constitute a separate offense.

(3) The city attorney shall have the authority to commence an action in a court of competent jurisdiction to enforce the penalty provisions of this section. (1999 Code, § 17-206)

CHAPTER 3

PRIVATE CURBSIDE RECYCLING

SECTION

17-301. Private curbside recycling business allowed. Private curbside recycling businesses are permitted in the City of Maryville only pursuant to the terms and conditions set forth herein. Operation of any private curbside recycling business in a manner inconsistent with the terms of this chapter shall be deemed a violation of the city code and punishable under the general penalty clause. (1999 Code, § 17-301)

17-302. Operators of private curbside recycling business to have permit from the City of Maryville. It shall be unlawful for any person or entity to operate or engage in a private curbside recycling business within the corporate limits of the City of Maryville without first obtaining a permit therefore in compliance with the provisions of this chapter. No permit shall be used at any time by any person or business other than the one to whom it is issued. (1999 Code, § 17-302)

17-303. Definition of private curbside recycling business. A "private curbside recycling business" is a business run by a non-governmental entity which seeks to collect recyclable material from residences and businesses within the City of Maryville. Such businesses permit or require customers to place potential recyclable materials at a certain location on their property, or on or adjacent to city rights-of-way adjacent to where a city residential garbage can is placed for pick up by the "private curbside recycling business." (1999 Code, § 17-303)

17-304. Permit procedure – application form. Each permit application shall be in a form as required by the city recorder. All applications shall include a photograph or description of the proposed containers to be used for curbside recycling to the extent that such containers are intended to be placed on, or adjacent to, the city right-of-way for collection in conformity with the requirements of this chapter. The city may require the applicant to allow the city to physically inspect a sample of the proposed container prior to permit approval. (1999 Code, § 17-304)

17-305. Permit fee. Each applicant for a permit as a private curbside recycling service shall submit an application form and a non-refundable fee of fifty dollars ($50.00). (1999 Code, § 17-305)

17-306. Denial or approval of permit. Upon receipt of the application and the payment of the permit fee, an investigation shall be made of the applicant for the protection of the public health, safety and general welfare. (1999 Code, § 17-306)

17-307. Denial of the permit. The permit shall be denied if an investigation discloses that:

(1) Any information in the application is materially false or misleading;

(2) The reputation or record of the applicant, or those involved with the applicant, are such that allowing the permit to issue would constitute a potential threat to the public health, safety, or general welfare of the citizens of the city; or

(3) The receptacle proposed for curbside recycling is unacceptable to the city. (1999 Code, § 17-307)

17-308. Approval of the permit. If the investigation discloses no grounds for the denial of the permit, the city recorder shall issue the permit to the applicant. (1999 Code, § 17-308)

17-309. Appeal of the denial. Any refusal to issue a permit may be appealed to the city manager. The aggrieved applicant may, within ten (10) days following the date of the notice of the refusal to issue the permit, appeal by giving the city manager written notice of the appeal stating the grounds for the appeal. The city manager shall set a hearing on the appeal date within ten (10) days of the receipt of the appeal. A decision of the city manager shall be final. (1999 Code, § 17-309)

17-310. Expiration or withdrawal of permit. The permit for a private curbside recycling business shall last for one (1) year from the date of issuance. An application for renewal shall be made substantially in the same

form as the original application. An additional annual license fee of fifty dollars ($50.00) is further required for each renewal permit. (1999 Code, § 17-310)

17-311. Requirements for curbside recycling. The following requirements shall be met by all persons who engage in curbside recycling from either residential or commercial facilities:

(1) Curbside recycling shall be permitted only in approved containers.

(2) Permit holders must obey all traffic and safety laws.

(3) Curbside recycling shall be allowed only on the same day as residential garbage pick up service by the City of Maryville.

(4) Depending on the size of the recycling containers, the number of curbside recycling containers to be placed curbside and on, or adjacent to, the city right-of-way near the city's residential garbage receptacle, may be limited.

(5) All curbside recycling containers shall be placed within four feet (4') of city residential garbage receptacles.

(6) Curbside recycling containers shall not be placed in a location for pick up so as to interfere with parked cars, vehicles, traffic, or in any other way so as to create a hazard or nuisance.

(7) Curbside recycling containers are permitted to be placed for collection adjacent to the city's residential garbage receptacles no earlier than 5:00 P.M. on the day before collection. Such containers are not permitted to remain at the curbside collection point after 7:00 P.M. on the day of collection.

(8) Leaving containers at the curbside except during the time specified for collection constitutes neglect by the occupant/property owner and shall be an offense punishable pursuant to the city's general penalty clause.

(9) Volume of curbside recycling must not exceed containers provided to avoid items blowing into street. (1999 Code, § 17-311)

17-312. City-owned recycling centers. (1) The City of Maryville owns, operates, and maintains recycling centers in the city. Recyclables from these centers are transferred by the city to a recycling facility. City-owned recycling centers are for the use of City of Maryville residents and City of Maryville property owners only.

(2) Private curbside recycling businesses are not permitted to dispose of items in the city-owned recycling centers. Recyclables collected by private curbside recycling businesses must be taken directly to a recycling facility by the private curbside recycling business itself. (1999 Code, § 17-312)

17-313. Violations and penalty. A private curbside recycling business that fails to follow the requirements of this chapter is subject to having its permit revoked by the city, thereby prohibiting it from operating a private curbside recycling business in the City of Maryville. This permit revocation is in addition to any penalties otherwise provided for a violation of city code punishable under the general penalty clause. (1999 Code, § 17-313, modified)

TITLE 18

WATER AND SEWERS[1]

CHAPTER

CHAPTER 1

RULES, RATES AND CHARGES FOR THE GOVERNING OF THE WATER AND SEWER DEPARTMENT[2]

SECTION

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[1]Until 1988, the electrical, water, and wastewater systems for the City of Maryville were under the jurisdiction, control, and management of the Board of Utilities of the City of Maryville as provided by Priv. Acts 1955, ch. 176 which was set out, as amended, in the charter. At that time art. XIII in the city's charter also expressly provided for the utilities board to control and manage those three (3) utilities. However, Priv. Acts 1988, ch. 222, repealed Priv. Acts 1955, ch. 176 and art. XIII of the city's charter and provided that "all rights, title and interest in and to all property and assets and all obligations of the Board of Utilities of the City of Maryville are hereby transferred to the City of Maryville."

For provisions authorizing the fluoridation of the water supply of the city, see Ord. #771 of record in the recorder's office.

For the provisions of a franchise granted October 1, 1957, to Tapoco, Inc., for the construction, maintenance, and operation of a water pipe line within the city, see Ord. #764 of record in the recorder's office.

[2]Municipal code references

Building, utility and residential codes: title 12.

Refuse disposal: title 17.

18-101. Rules, regulations, rates and policies adopted and how they may be repealed, amended, or adopted. For the purpose of governing the operation of the City of Maryville's Water and Sewer Department within or without the municipality, the "Rules, Regulations, Rates and Policies for the City of Maryville Water and Sewer Department" are adopted by the city as set forth in Exhibit A hereto.[1] Such Rules, Regulations, Rates and Policies for the City of Maryville Water and Sewer Department may be repealed, amended, and adopted by resolution. (1999 Code, § 18-101, modified)

18-102. Available in recorder's office. One (1) copy of the "Rules, Regulations, Rates and Policies for the City of Maryville Water and Sewer Department" has been placed on file in the recorder's office and shall be kept there for use and inspection of the public. (1999 Code, § 18-102, modified)

18-103. Water usages regulated during periods of shortage.

(1) When the flow downstream at the City of Alcoa withdrawal operations in Little River at mile 9.7 is thirty (30) Cubic Feet per Second (CFS) or less, or when the flow downstream of the City of Maryville withdrawal operations in Little River at mile 17.3 is less than 37.6 CFS, then Maryville will appeal to the water customers of the system through the news media for voluntary water conservation. During periods of drought, the City of Maryville will work cooperatively with the City of Alcoa and Tuckaleechee Utility District (hereinafter, along with the City of Maryville, collectively referred to as "the utilities") to regulate and conserve water usage.

(2) All further requests for water conservation and/or curtailment of water use shall be based on the available water supply from all sources including, but not limited to, auxiliary raw water supply lines and supply connections from other water providers, and the ability of the utilities' distribution system to maintain proper levels in their respective water storage tanks/reservoirs.

(3) It is the intent of this section to address water supply both during:

(a) Drought conditions; and

(b) Other emergency conditions that may limit the available potable water within one (1) or more of the utilities' water distribution systems.

Each of the utilities shall maintain operational control within its own system to implement water usage controls during a period of source water shortage or other catastrophic event when any such period of source water shortage or other catastrophic event affects their respective system exclusively or cooperatively when deemed necessary by the Mayors and/or City Managers of Alcoa and

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[1]Exhibit A to Ord. #2004-43, Dec. 2004 is of record in the recorder's office.

Maryville, or the TUD District Manager. The utilities shall require further water use reductions as follows:

(a) When the potable water demand to allow the utilities' tanks/reservoirs to remain full is eighty-five percent (85%) or less than the total available potable water supply from all sources, then voluntary water conservation measures as defined below shall be put into effect; no other measures to encourage or require conservation will be taken.

(b) When the potable water demand to allow the utilities' tanks/reservoirs to remain full is greater than eighty-five percent (85%) and less than ninety-five percent (95%) of the total available potable water supply available from all sources, then water use for "non-essential purposes," as defined below, shall be prohibited.

(c) When the potable water demand to allow the utilities' tanks to remain full is greater than, or equal to, ninety-five percent (95%) and less than one hundred percent (100%) of the total available potable water supply available from all sources, then industrial and commercial customers will be required to implement "industrial and commercial water conservation measures," as defined below.

(d) Water conservation definitions. (i) "Industrial and commercial water conservation measures." Requires industrial and commercial customers, excluding medical care facilities, to reduce their water usage by at least ten percent (10%) of their average daily consumption until notice is given that the restriction is no longer in effect.

(ii) "Non-essential purposes." Includes, but not necessarily be limited to, the filling of swimming pools, residential car washing, operation of display fountains and the watering of trees, lawns, gardens and other vegetation. However, upon application and good cause shown, one (1) or more of the utilities may issue a temporary limited watering permit, upon such terms and conditions as the respective utility deems appropriate, for:

(A) Landscaping installed less than six (6) months prior to the implementation of water conservation measure; and/or

(B) Commercial nurseries; such permits shall be for a duration of less than thirty (30) days. Such temporary limited watering permits may be extended upon application to the utility and, for good cause shown, any such extension not to exceed the time of the initial permit. The elimination of water usage for "non-essential purposes" shall be included in a call for mandatory water conservation measures.

(iii) "Voluntary water conservation measures." A call for water customers to voluntarily decrease their use of potable water to assist in alleviating the current source water shortage.

"Voluntary water conservation demand measures" may include any and all measures to reduce potable water consumption by customers of the respective utilities.

(4) When any of the conditions specified in subsections (1), (2), (3)(a), (3)(b) and (3)(c) of § 18-103 are existing or eminent, official notice of these restrictions will be given promptly to the public through the local news media. The city will also notify its ten (10) largest water customers of the emergency via telephone calls, U.S. mail, electronic messages, and/or other practical means of communications.

(5) It shall be unlawful for any person, firm, association, partnership or corporation to violate or fail to comply with any provisions of this section, and any person, firm, association, partnership or corporation shall, upon conviction of any violations, be fined fifty dollars ($50.00) for each separate offense. Each day that a violation occurs shall be construed a separate offense and punished accordingly. (1999 Code, § 18-104)

18-104. Violations and penalty. Any person, firm, corporation, or agent who shall violate a provision of the "Rules, Regulations, Rates and Policies for the City of Maryville Water and Sewer Department" or fail to comply therewith, or with any of the provisions thereof, may be deemed guilty of a separate offense, and for each and every day, or portion thereof, during which any violation of any of the provisions of the "Rules, Regulations, Rates and Policies for the City of Maryville Water and Sewer Department" is committed. Upon a finding of guilt, the violator shall be fined as set forth in the "Rules, Regulations, Rates and Policies of the City of Maryville Water and Sewer Department," whose provisions regarding fees are hereby adopted by reference. (1999 Code, § 18-103, modified)

CHAPTER 2

SEWAGE AND HUMAN EXCRETA DISPOSAL

18-201. General provisions. (1) Purpose and policy. This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Maryville, Tennessee, hereinafter known as the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977, as amended, and the State of Tennessee's General Pretreatment Regulations, and the Federal Pretreatment Regulations (40 CFR, part 403).

The objectives of this ordinance are:

(a) To protect the public health;

(b) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge or biosolids;

(c) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving water or the atmosphere or otherwise be incompatible with the system;

(d) To improve the opportunity to recycle and reclaim wastewaters, biosolids and sludges from the system; and

(e) To provide for equitable distribution of the cost of the municipal wastewater system.

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to the City of Maryville and to persons outside the city who are, by contract or agreement with the city, users of the City of Maryville's Publicly Owned Treatment Works (POTW). Except as otherwise

provided herein, the city manager or his representative shall administer, implement, and enforce the provisions of this ordinance.

(2) Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:

(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) "Administrative penalty." A punitive monetary charge unrelated to actual treatment costs which is assessed by the control authority rather than a court of law.

(c) "Administrative order." A document which orders the violator to perform a specific act or refrain from an act. For example, an order may require users to attend a show cause hearing, cease and desist discharging or undertake activities pursuant to a compliance schedule.

(d) "Administrator." The Administrator of the Environmental Protection Agency.

(e) "Appeal authority." The local appeal authority shall consist of the current members of the City Council of the City of Maryville, whose chairman shall be the mayor, or any member(s) of the city council or any officer(s) or employee(s) of the city so designated as the appeal authority by the city council. The appeal authority shall conduct hearings concerning appeals of the decisions of the hearing authority.

(f) "Approval authority." The Director of the Division of Water Resources, Tennessee Department of Environment and Conservation (TDEC). The approval authority is responsible for approval and oversight of the control authority pretreatment programs, including the evaluation of the effectiveness of local enforcement.

(g) "Authorized representative of industrial user."

(i) If the user is a corporation:

(A) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and

where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(ii) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(iii) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(iv) The individuals described in paragraphs (i) through (iii), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the control authority.

(h) "Best Management Practices (BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-202(1) [40 CFR 403.5(a)(l) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(i) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty degrees Centigrade (20° C) (sixty-eight degrees Fahrenheit (68° F) expressed in terms of weight [pounds per day (lb/day)] and concentration [milligrams per liter (mg/l)].

(j) "Biosolids." Sludge which complies with the requirements of 40 CFR part 503 and is applied to the land in order to condition the soil or fertilize crops and/or vegetables.

(k) "Building drain." The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning three (3) feet outside the inner face of the building wall.

(l) "Building sewer." That part of the horizontal piping ofa drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to a POTW, private sewer, individual sewage disposal system or other point of disposal.

(m) "Bypass." The intentional diversion of waste streams from any portion ofa user's treatment facility.

(n) "Categorical standards; categorical pretreatment standards." National categorical pretreatment standards or pretreatment standard.

(o) "Categorical industrial user." An industrial user subject to categorical pretreatment standards.

(p) "Cease and desist order." An administrative order directing a user to immediately halt illegal or unauthorized discharges.

(q) "Chronic violation." The term used to describe violations of a wastewater discharge permit when the limit for any one parameter listed in the permit is exceeded by any magnitude for sixty-six percent (66%) or more of the total industrial self-monitoring plus control authority compliance monitoring measurements made in a six (6) month period.

(r) "City." The City of Maryville, Tennessee.

(s) "City manager." The person designated by the city to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this section, or his duly authorized representative.

(t) "Compatible pollutant." Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria; plus any additional pollutants identified in the publicly owned treatment works NPDES permit, where the publicly owned treatment works is designed to treat such pollutants and, in fact, does treat such pollutants to the degree required by the POTW's NPDES permit.

(u) "Compliance order." An administrative order directing a noncompliant user to achieve or restore compliance by a date specified in the order.

(v) "Compliance schedule." A schedule of required activities (also called milestones) necessary for a user to achieve compliance with all pretreatment program requirements with dates for achieving each milestone.

(w) "Composite sample--twenty-four (24) hour flow proportional composite sample." A sample consisting of several wastewater portions during a twenty-four (24) hour period in which the portions are proportional to the flow and combine to form a representative sample.

(x) "Consent order." An administrative order embodying a legally enforceable agreement between the control authority and the noncompliant user designed to restore the user to compliance status.

(y) "Control authority." The City Manager of the City of Maryville or his designated representative.

(z) "Cooling Water. The water discharge from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(aa) "Criminal prosecution." A criminal charge brought by the control authority against an accused violator. The alleged criminal action

may be a misdemeanor or a felony and is defined as willful, negligent, knowing and/or intentional violations. A court trial-by-jury is generally required and, upon conviction, punishment may include a monetary penalty, imprisonment or both.

(bb) "Customer." Any individual, partnership, corporation, co-partnership, company, joint stock company, trust, estate, government entity, or any other legal entity or their legal agents or assigns who receives sewer service from the city under either an expressed or implied contract requiring payment to the city for such service. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

(cc) "Daily average loading." The average over a three (3) month period of waste constituents found in a twenty-four (24) hour period in the sewage entering the influent of the POTW treatment plant.

(dd) "Daily maximum limits." The maximum allowable discharge of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharge over the course of the day. Where daily maximum limits are expressed in units of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(ee) "Domestic waste(s)." Liquid wastes (i) from the non-commercial preparation, cooking, and handling of food, or (ii) containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions.

(ff) "Environmental Protection Agency," or "EPA." The U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

(gg) "Federal Categorical Pretreatment Standard" or "Pretreatment Standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

(hh) "Felony." A crime punishable by imprisonment for greater than one year (depending on state law).

(ii) "Fees." A schedule of charges imposed to recover treatment and or administrative costs (not punitive in nature).

(jj) "Garbage." Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage and sale of produce.

(kk) "Grab sample." A grab sample is an individual sample collected from a waste stream, on a one (1) time basis, over a period of time not exceeding fifteen (15) minutes.

(ll) "Hearing authority." The administrative board responsible for the administration and enforcement of an approved pretreatment program and the provisions of *Tennessee Code Annotated*, §§ 69-3-123 through 69-3-129. The local hearing authority shall consist of the City Manager of the City of Maryville, and any member(s) of the city council or any officer(s) or employee(s) of the city so designated as the hearing authority by the city manager. The hearing authority shall conduct hearings concerning the pretreatment program in accordance with *Tennessee Code Annotated*, §§ 69-3-123 through 69-9-129.

(jj) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(kk) "Indirect discharge." The discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(ll) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 502 of the Act (33 U.S.C. 1342).

(mm) "Injunction, injunctive relief." A court order which restrains or compels action by the user.

(nn) "Instantaneous maximum limit." The maximum allowable concentration of a pollutant determined from the analysis of any discrete or composited sample collected, independent of the flow rate and the duration of the sampling event.

(oo) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or collection system.

(pp) "Jurisdiction." The extent of authority of a governmental entity's power to make and enforce laws.

(qq) "Litigation." An enforcement action brought in a judicial (court) forum.

(rr) "Misdemeanor." A crime punishable by imprisonment of less than one (1) year (depending on state law).

(ss) "Natural outlet." Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

(tt) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which

will be applicable to such source, if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the Federal Register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard. In order to be considered a new source, the following provisions must be met:

(i) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(A) Construction on the 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 this section but otherwise alters, replaces or adds to existing process or production equipment.

(B) Construction of a new source as defined under this section has commenced if the owner or operator has:

(1) Begun, or caused to begin as a part of a continuous on-site construction program:

(a) Any placement, assembly or installation of facilities or equipment; or

(b) Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

(2) 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 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 section.

(uu) "National Pollutant Discharge Elimination System" or "NPDES" permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).

(vv) "Normal sewage." Sewage shall be regarded as normal for the City, if analyses show a daily average loading of not more than three hundred (300) milligrams per liter of BODS; not more than eight hundred (800) milligrams per liter of COD; not more than three hundred (300) milligrams of total suspended solids; not more than thirty (30) milligrams per liter of ammonia-nitrogen; not more than sixty (60) milligrams per liter of total nitrogen; and not more than one hundred (100) milligrams per liter of ether soluble matter (oil and grease).

(ww) "Notice of violation." A control authority document notifying a user that it has violated pretreatment standards and requirements. Generally used when the violation is relatively minor and the control authority expects the violation to be corrected within a short period of time.

(xx) "Pass-through." Violation of the state issued pass-through limits established for the discharge from the POTW treatment plant.

(yy) "Penalty." A monetary or other punitive measure, usually associated with a court action, for a violation of the law.

(zz) "Person." Any individual, partnership, co-partnership, firm, company corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicted by the context.

(aaa) "QH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(bbb) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(ccc) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(ddd) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by 40 CFR section 403.6(d).

(eee) "Pretreatment requirements or standards." Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user, including, but not limited to, discharge limits, sampling requirements, analytical requirements, reporting requirements and compliance schedules.

(fff) "Priority pollutants." A list of one hundred twenty-six (126) pollutants established by EPA and considered hazardous to the environment or to humans.

(ggg) "Properly shredded garbage." The wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles are carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (1/2") in any dimension.

(hhh) "Public sewer." A sewer in which all owners of abutting properties have equal rights and are controlled by public authority.

(iii) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons inside and outside the city who are, by contract or agreement with the city, users of the city's POTW.

(jjj) "POTW treatment plant." The portion of the POTW designed to provide treatment to wastewater.

(kkk) "Sanitary sewer." A sewer which carries sewage from dwellings (including apartment houses and hotels) office buildings, factories, or institutional buildings and into which storm, surface, and groundwaters are not intentionally admitted.

(lll) "Self monitoring." Sampling and analysis of wastewater performed by the user.

(mmm) "Sewer." A pipe or conduit for carrying sewage and other waste liquids.

(nnn) "Shall" is mandatory; "May" is permissive.

(ooo) "Show cause hearing." A formal hearing requiring the user to appear before the local hearing authority and demonstrate why the control authority should not take a proposed enforcement action against the user.

(ppp) "Significant industrial user." Any industrial user of the City's wastewater disposal system who (i) is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or (ii) has an average discharge flow of twenty-five thousand gallons (25,000) gallons per day or more of process wastewater

to the POTW; or (iii) contributes five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or (iv) is designated as such by the control authority, approval authority or EPA on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(qqq) "Significant non-compliance." Criteria used by the control and approval authorities to identify important violations and/or patterns ofnoncompliance. This criteria is used to establish enforcement priorities and comply with special reporting requirements. An industrial user is in significant noncompliance if its violation(s) meets one (1) 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 the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(iii) Any other violation of a pretreatment standard or requirement as defined by § 18-202 (daily maximum, long-term average, instantaneous limit, narrative standard, or best management practices) that the control authority determines has caused, alone or in combination with other discharges, interference or pass-through at the POTW, including endangering the health of POTW personnel or the general public;

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

(v) Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in the discharge permit or an enforcement order for starting construction, completing construction, or attaining final compliance;

(vi) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports,

ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(vii) Failure to accurately report non-compliance;

(viii) Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

(rrr) "Significant violation." A violation which remains uncorrected forty-five (45) days after notification of noncompliance; or which is part of a pattern of noncompliance over a twelve (12) month period; or which involves a failure to accurately report noncompliance; or which results in the POTW exercising its emergency authority under 40 CFR 403.8(f)(2)(vi)(B) and 403.8(f)(2)(vii).

(sss) "Sludge" or "Sewage sludge." The solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a POTW. Sludge includes, but is not limited to, scum or solids removed in primary, secondary or advanced wastewater treatment processes as well as any material derived from sewage sludge. Sludge does not include grit and/or screenings generated during preliminary treatment.

(ttt) "Slug discharge." Any discharge of a non-routine, episodic nature, including, but not limited to an accidental spill or a non-customary batch discharge.

(uuu) "Slug control plan." A plan to control slug discharges, which shall include, as a minimum, (i) description of discharge practices, including non-routine batch discharges; (ii) description of stored chemicals, (iii) procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a discharge prohibition under this ordinance, or 40 CFR 403.S(b), with procedures for follow-up written notification within five (5) days; (iv) if necessary, procedures to prevent adverse impact from accidental spills, including 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.

(vvv) "State." The State of Tennessee Department of Environment and Conservation.

(www) "Standard Industrial Classification (SIC)." A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1972.

(xxx) "Storm sewer" or "Storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters, upon approval of the mayor or his representative.

(yyy) "Storm water." Any flow occurring during or following any form ofnatural precipitation and resulting there from.

(zzz) "Surcharge." A fee charged to users in excess of the normal sewer use charge to cover the additional expenses incurred by the POTW for treatment of compatible pollutants of a higher concentration than the POTW treatment plant was designed to treat, but which do not cause an interference with the POTW.

(aaaa) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(bbbb) "Technical Review Criteria (TRC) violation." The term used to describe violations of a wastewater discharge permit when:

(i) The limit for BOD, total suspended solids, ammonia-nitrogen, or fats, oils and grease is exceeded by forty percent (40%) for thirty-three percent (33%) or more of the total industrial self-monitoring plus control authority compliance monitoring measurements made in a six (6) month period; or

(ii) The limit for any other pollutant, except pH, is exceeded by twenty percent (20%) for thirty-three percent (33%) or more of the total industrial self-monitoring plus control authority compliance monitoring measurements made in a six (6) month period.

(cccc) "Testimony." A solemn declaration made by a witness under oath in response to interrogation by a lawyer or public official which is used as evidence.

(dddd) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(eeee) "Unpolluted water or waste." Any water or waste containing no free or emulsified grease or oil; acid or alkali; phenols or other substances imparting taste and odor in receiving water; toxic and poisonous substances in suspension, colloidal state or solution; and noxious or odorous gases and/or other polluting materials.

(ffff) "User." Any customer who contributes, causes or permits the contribution of wastewater into the city's POTW.

(gggg) "Wastewater." The liquid-and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(hhhh) "Wastewater discharge permit." As set forth in § 18-205(3) of this ordinance.

(3) Abbreviations. The following abbreviations shall have the designated meanings:

- BODS - Five (5) day Biochemical Oxygen Demand.
- CFR - Code of Federal Regulations.
- COD - Chemical Oxygen Demand.
- CWA - Clean Water Act.
- EPA - Environmental Protection Agency.
- l - Liter.
- LEL - Lower Explosive Limit
- mg - Milligrams.
- mg/l - Milligrams per liter.
- NPDES - National Pollutant Discharge Elimination System.
- POTW - Publicly Owned Treatment Works.
- SIC - Standard Industrial Classification.
- SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, *et. seq.*
- TSS - Total Suspended Solids.
- U.S.C. - United States Code. (Ord. #2021-42, Dec. 2021)

18-202. Discharge regulations. (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass-through or interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other national, state or local pretreatment standards or requirements. A user may not contribute the following substances to the POTW:

(a) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or by injurious in any other way to the POTW or to the operation of the POTW. No pollutant shall be discharged which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140°F) or sixty degrees Celsius (60°C) using the test methods specified in 40 CFR 261.21. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than five percent (5%), nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter.

(b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage or improperly shredded garbage with particles greater than one-half inch (1/2") in any dimension.

(c) Any wastewater having a pH less than 5.0 or greater than 9.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act.

(e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, biosolids, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with the sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, the Clean Water Act, or federal or state criteria applicable to the sludge management method being used.

(g) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit, the receiving water quality standards, or cause a passthrough violation.

(h) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds sixty-five degrees Celsius (65°C) one hundred fifty degrees Fahrenheit (150°F) or cause the influent of the wastewater treatment plant to exceed forty degrees Celsius (40°C) one hundred four degrees Fahrenheit (104°F) unless the POTW treatment plant is designed to accommodate such temperature.

(j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW. In no case shall a slug discharge have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five

(5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(k) Any wastewater containing any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the control authority in compliance with applicable state or federal regulations.

(l) Any wastewater which causes a hazard to human life or creates a public nuisance.

(m) Any stormwater (flow occurring during or following any form of natural precipitation and resulting therefrom), surface water, groundwater, roof runoff, subsurface drainage, to any sanitary sewer. Storm water drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the state. Uncontaminated industrial cooling water or unpolluted process waters may be discharged on approval of the state to a storm sewer or natural outlet. Landfill leachate and discharge from temporary groundwater remediation projects may be discharged to the sewer system in accordance with this chapter upon approval by the control authority.

(n) Any wastewater containing fats, wax, grease, petroleum oil, nonbiodegradeable cutting oil or products of mineral oil origin, or other substances which may solidify or become viscous at temperatures between zero degrees Celsius (0°C) thirty-two degrees Fahrenheit (32°F) and forty degrees Celsius (40°C) one hundred four degrees Fahrenheit (l04°F) and/or cause interference or pass-through at the POTW treatment plant.

(o) 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.

(p) Any trucked or hauled pollutants, except at discharge points designated by the POTW and in accordance with the requirements of this ordinance.

When the control authority determines that a user(s) is contributing to the POTW any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the control authority shall

(i) Advise the user(s) of the impact of the contribution on the POTW and

(ii) Develop effluent limitations for such user(s) to correct the interference with the POTW.

(2) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this ordinance for sources in that sub-category, shall immediately supersede the limitations imposed under this ordinance. The

affected users shall come into compliance with said limitations by the date specified by the federal regulation.

(3) Modification of federal categorical pretreatment standards. Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the control authority may apply to the approval authority for modification of specific limits in the federal pretreatment standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in ninety five percent (95%) of the samples taken when measured according to the procedures set forth in section 403.7(c)(2) of (title 40 of the Code of Federal Regulations, part 403) - "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The control authority may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR, part 403, section 403.7, are fulfilled and prior approval from the approval authority is obtained.

(4) Limitations on wastewater strength. No person or user shall discharge wastewater to the POTW in excess of the concentration set forth in Table 18-202(4) (next page) unless:

(a) An exception has been granted the user by the control authority; or

(b) The wastewater discharge permit of the user provides as a special permit condition a higher interim concentration level in conjunction with a requirement that the user construct a pretreatment facility or institute changes in operation and maintenance procedures to reduce the concentration of pollutants to levels not exceeding the standards set forth in Table 18-202(4) within a fixed period of time.

TABLE 18-202(4)
Limits on Wastewater Discharged by Users

Parameter	Daily Maximum Limit mg/l
Arsenic	0.058
Cadmium	0.041
Chromium, total	3.81
Copper	0.81
Cyanide	0.36
Lead	0.21
Mercury	0.011
Molybdenum	Report only
Nickel	0.51
Selenium	Report only
Silver	0.32

Parameter	Daily Maximum Limit mg/l
Zinc	1.21
Benzene	0.22
Carbon tetrachloride	0.34
Chloroform	10.8
Ethyl benzene	0.36
Methylene chloride	5.19
Naphthalene	0.071
Phenols, total	1.71
Phthalates, total	3.09
Tetrachloroethylene	0.39
Trichloroethylene	0.61
Toluene	1.32
1,1,1-Trichloroethane	2.44
1,2-Transdichloroethylene	1.35

Any user discharging wastewater having pollutants in excess of the concentrations listed above may be subject to fines and/or other enforcement actions as outlined in § 18-208 hereinafter.

(5) Criteria to protect the treatment plant influent. No person or user shall discharge any waters or wastes which cause the wastewater arriving at the treatment facility to exceed any of the concentration limits shown in Table 18-202(5) hereinafter. Users may be subject to reporting and monitoring requirements for all or a part of these parameters.

The control authority shall monitor the treatment works influent for the parameters in Table 18-202(5). In the event that the influent at the treatment works reaches or exceeds the levels established by said table, the Control Authority shall initiate technical studies to determine the cause of the influent violation, and shall recommend to the city council such remedial measures as are necessary, included, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The control authority shall also recommend changes to any of these criteria in the event the POTW effluent standards are changed or in the event that there are changes in any applicable law or regulation affecting same or in the event changes are needed for more effective operation of the POTW.

TABLE 18-202(5)
Protection Limits at Treatment Works Influent

Parameter	Daily Maximum Limit mg/l
Arsenic	0.00403
Cadmium	0.00274
Chromium, total	0.250
Copper	0.0721
Cyanide	0.246

Parameter	Daily Maximum Limit mg/l
Lead	0.0144
Mercury	0.000800
Nickel	0.0345
Silver	0.0214
Zinc	0.168
Benzene	0.0144
Carbon tetrachloride	0.0225
Chloroform	0.0708
Ethyl benzene	0.0245
Methylene chloride	0.340
Naphthalene	0.00500
Phenols, total	0.134
Phthalates, total	0.220
Tetrachloroethylene	0.0259
Trichloroethylene	0.0404
Toluene	0.0867
1,1,1-Trichloroethane	0.0245
1,2-Transdichloroethylene	0.0882

(6) Compatible pollutants. The POTW treatment plant was designed to treat specific waste load concentrations and mass loading of certain compatible pollutants, which include five-day Biochemical Oxygen Demand (BODs), Chemical Oxygen Demand (COD), Total Suspended Solids (TSS), Settleable Solids (SS), Total Dissolved Solids (TDS) and Ammonia-Nitrogen (NH3-N). If a user discharges concentrations or mass loadings of compatible pollutants which exceed the limits set forth in the wastewater discharge permit, added operation and maintenance costs will be incurred by the POTW, and this additional cost may be passed on to the user through surcharges for excess compatible pollutants. Surcharges shall be established by the control authority based on the cost to treat the excess compatible pollutants. The control authority reserves the right to establish maximum allowable discharge limits for compatible pollutants in order to protect the POTW treatment plant and to revise surcharges based on changes in operating costs.

(7) State requirements. State requirements and limitation on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this ordinance.

(8) Control authority's right of revision. The control authority reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 18-201 of this ordinance.

(9) Dilution of discharge. No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations

contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the city or state. The combination of process wastes and domestic wastes prior to discharge is not considered dilution.

(10) Slug discharges. (a) Protection from slug discharges. Each user shall provide protection from slug discharge of prohibited materials or other substances regulated by this ordinance. Facilities to prevent slug discharge of prohibited material shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the control authority for review, and shall be approved by the control authority before construction of the facility. All existing users shall complete such a plan within one hundred eighty (180) days from the effective date of this ordinance. No user who commences contribution to the POTW after the effective date of this ordinance shall be permitted to introduce pollutants into the system until a slug discharge control plan has been approved by the control authority. Significant industrial users are required to notify the control authority immediately of any changes at its facility affecting potential for a slug discharge.

Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this ordinance. In the case of a slug discharge, it is the responsibility of the User to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(b) Written notice of slug discharges. Within five (5) days following a slug discharge the user shall submit to the control authority a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article 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 whom to call in the event of a slug discharge. Employers shall insure that all employees who may cause or suffer such a slug discharge to occur are advised of the emergency notification procedure. In lieu of placing notices on bulletin boards, the user may submit an approved slug control plan.

(11) Discharge of hazardous wastes. All industrial users shall notify the control authority, the EPA Region IV Resource Conservation and Restoration Division, and the Tennessee Department of Environment and Conservation Division of Solid Waste Management in writing of any discharge into the POTW

of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. The notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other).

If the industrial user discharges more than one hundred (100) kilograms of such wastes per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimate of the mass and concentration of such constituents discharged during that calendar month, and an estimate of the mass and concentration of such constituents expected to be discharged during the following twelve (12) months.

Notification shall be provided within one hundred eighty (180) days of the discharge. Notification need be submitted only once for each hazardous waste discharged; however, advance notification of substantial change is required.

Industrial users are exempt from notification requirements during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in Tennessee Rule 0400-1-11-.02(4)(a) and (4)(d).

If new regulations identify additional characteristics of hazardous wastes or list new hazardous wastes, notification of the appropriate authorities by the industrial user is required within ninety (90) days of the effective date of such regulations.

If notification is required, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(12) Limitations on the use of garbage grinders. Garbage grinders shall discharge only properly shredded garbage into the POTW. Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the POTW sewers. Garbage grinders shall not be used for the grinding of plastic, paper products, inert materials, or garden refuse.

(13) Limitations on point of discharge. No person shall discharge any substance directly into a manhole or other opening in a POTW sewer other than through an approved building sewer unless he shall have been issued a temporary permit by the control authority. The control authority shall incorporate in such temporary permit such conditions as it deems reasonably necessary to insure compliance with the provisions of this article and the user shall be required to pay applicable charges and fees therefore. (Ord. #2021-42, Dec. 2021)

18-203. Private sewage disposal and holding tank waste disposal.

(1) Private sewage disposal systems. Where any residence, office, recreational facility or other establishment used for human occupancy is not

accessible to the POTW, the user shall provide a private sewage disposal system. Where any residence, office, recreational facility or other establishment used for human occupancy has the building drain located below the elevation necessary to obtain a sufficient grade in the building sewer, but is otherwise accessible to the POTW, the owner shall provide a private on-site sewage pumping station subject to review and approval by the control authority.

A private sewage disposal system may not be constructed within the city limits unless a certificate is obtained from the control authority stating that the POTW is not accessible to the property and no POTW extension is proposed for construction in the immediate future. No certificate shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the City of Maryville and the Blount County Environmental Health Department.

Any private sewage disposal system must be constructed in accordance with the requirements of the State of Tennessee, the Blount County Environmental Health Department and the City of Maryville, and must be inspected and approved by an authorized representative of the city manager. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times. When access to the POTW becomes available, refer to § 18-205(1) of this document for connection requirements. Once the building sewer has been connected to the POTW the private sewage disposal system shall be cleaned of solids and filled with suitable material. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Blount County Health Department.

(2) Septic tank pumping, hauling and discharge. No person owning vacuum, septic tank or "cess pool" pump trucks or other liquid waste transport trucks shall discharge directly or indirectly such sewage into the POTW, unless such person shall first have applied for and received a septage transporter permit from the control authority. All applicants for a septage transporter permit shall complete such forms as required by the control authority, pay appropriate fees, and agree in writing to abide by the provisions of this article and any special conditions or regulations established by the control authority. Such permits shall be valid from date of issuance to the end of the calendar year provided that such permit shall be subject to revocation by the control authority for violation of any provision of this article or reasonable regulation established by the control authority. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste collected from septic tanks located in Blount County, Tennessee.

(3) Other holding tank waste. No person shall discharge any other holding tank waste into the POTW unless he shall have applied for and have been issued a permit by the control authority. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge,

and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees therefore, and shall comply with the conditions of the permit issued by the Control Authority and the Solids Waste Disposal Act (42 U.S.C. 6901, *et. seq*.). Provided, however, no permit will be required to discharge domestic waste from a recreational vehicle holding tank, provided such discharge is made into an approved facility designed to receive such waste.

(4) Fees. For each permit issued under the provisions of this ordinance, an annual service charge set as specified in § 18-204 shall be paid to the city. Any such permit granted shall be for one full calendar year or fraction of the calendar year, and shall continue in full force and effect from the time issued until the ending of the calendar year unless sooner revoked, and shall be non-transferable. All users discharging septic tank or holding tank wastes to the POTW shall pay appropriate fees to be established as specified under § 18-204.

(5) Designated disposal locations. The control authority shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm association or corporation to empty or clean such equipment at any place other than a place so designated. The control authority 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 POTW.

(6) Revocation of permit. Failure to comply with all the provisions of this ordinance shall be sufficient cause for the revocation of the disposal permit by the control authority. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving as a septic tank or wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the POTW. (Ord. #2021-42, Dec. 2021)

18-204. Charges and fees. (1) Purpose. It is the purpose of this section to provide for the recovery of costs from users of the POTW for the implementation of the program established herein and to provide a schedule of charges and fees which will enable the city to comply with the revenue requirements of section 204 of the Clean Water Act. Specific charges and fees shall be adopted by a separate ordinance; this section describes the procedure to be used in calculating the charges and fees. Additional charges and fees to recover funds for capital outlay, bond service costs and capital improvements may be assessed by the city. These charges and fees shall be recovered through the user classification established hereinafter. The applicable charges or fees shall be set forth in the city's schedule of charges and fees.

(2) Types of charges and fees. The city may adopt charges and fees which may include, but are not limited to:

(a) User classification charges;

(b) Fees for monitoring requested by a user;

(c) Fees for permit application;

(d) Appeal fees;

(e) Charges and fees based on wastewater constituents and characteristics;

(f) Fee for use of garbage grinders;

(g) Fees for holding tank wastes;

(h) Fees for reimbursement of administrative costs related to the pretreatment program;

(i) Fees for monitoring, inspection and surveillance procedures;

(j) Fees for reviewing slug discharge prevention procedures and construction;

(k) Fees for allowing connection of building sewers to the POTW;

(l) Fees for consistent removal by the city of pollutants otherwise subject to federal pretreatment standards;

(m) Other fees as the Control Authority may deem necessary to carry out the requirements of this ordinance.

These fees relate solely to the matters covered by this ordinance and are separate from all other fees chargeable by the city. For established fees refer to current water and wastewater rate schedule and the City of Maryville Customer Service Policy. (Ord. #2021-42, Dec. 2021)

18-205. Administration. (1) Use of public sewers required. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Maryville or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the City of Maryville or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

(c) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(d) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the

proper public sewer in accordance with the provisions of this ordinance, within sixty (60) days after date of official notice to do so, provided that said public sewer is within three hundred feet (300') of the building drain as defined herein. Any sewers not connected within the sixty (60) days shall be placed on billing.

(2) Wastewater dischargers require permit. It shall be unlawful to discharge to the POTW any wastewater except as authorized by the control authority in accordance with the provisions of this chapter.

(3) Wastewater discharge permits. (a) General permits. All significant industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant industrial users connected to or contributing to the POTW shall obtain a wastewater discharge permit within one hundred eighty (180) days after the effective date of this ordinance.

(b) Permit application. Users required to obtain a wastewater discharge permit shall complete and file with the control authority an application in the form prescribed by the control authority accompanied by any application fee that may be required. Existing significant industrial users shall apply for a wastewater discharge permit within sixty (60) days after the effective date of this ordinance, and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the significant industrial user may be required to submit all or some of the following information, in units and terms appropriate for evaluation:

(i) Name, address, and location (if different from the address);

(ii) SIC number according to the *Standard Industrial Classification Manual*, Bureau of the Budget, 1972, as amended;

(iii) Measurement of pollutants-

(A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources;

(B) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged including time and duration of contribution;

(C) Instantaneous, daily maximum, long-term average concentrations or mass loading, where required, including daily, monthly and seasonal variations, if any;

(D) Wastewater constituents and characteristics representative of daily operations including, but not limited to, those mentioned in § 18-202 as determined by a reliable analytical laboratory; sampling and analysis shall be

performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, part 136, as amended. Where the standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard.

(iv) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connec-tions and appurtenances by the size, location and elevation;

(v) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the significant industrial user to meet applicable pretreatment standards;

(vi) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the significant industrial user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

(A) The schedule shall contain increments of pro-gress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.)

(B) No increment referred to in paragraph (1) shall exceed nine (9) months.

(C) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the control authority including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 9

months elapse between such progress reports to the control authority.

(vii) Each product produced by type, amount, process or processes and rate of production;

(viii) Type and amount of raw materials processed (average and maximum per day);

(ix) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(x) Any other information as may be deemed by the control authority to be necessary to evaluate the permit application.

The Control Authority will evaluate the data furnished by the Significant Industrial User and may require additional information. After evaluation and acceptance of the data furnished, the Control Authority may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

(xii) All wastewater discharge permit applications must be signed by an Authorized Representative as defined in § 18-201(2) and contain the certification statement in § 18-205(4)(e).

(c) Permit modifications. Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a significant industrial user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by § 18-205(3), the significant industrial user shall apply for a wastewater discharge permit within one hundred eighty (180) days after the promulgation of the applicable national categorical pretreatment standard. In addition, the significant industrial user with an existing wastewater discharge permit shall submit to the control authority within one hundred eighty (180) days after the promulgation of an applicable federal categorical pretreatment standard the information required by paragraph (v) and (vi) of § 18-205(3)(b).

(d) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this ordinance, EPA's Pretreatment Standards and Regulations promulgated under the authority of section 307(b) and (c) of the Federal Water Pollution Control Act (as provided for in 40 CFR 403.8(f)(1)(iii), and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

(i) Statement of duration (five (5) years or less);

(ii) Statement of non-transferability;

(iii) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;

(iv) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the POTW;

(v) All wastewater samples must be representative of the user's discharge

(vi) Limits on the average and maximum wastewater constituents and characteristics;

(vii) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(viii) Requirements for installation and maintenance of inspection and sampling facilities;

(ix) Specifications and best management practices for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

(x) Compliance schedule;

(xi) Requirements for maintaining and retaining records relating to wastewater discharge and best management practices as specified by the control authority for a period of at least three (3) years, and affording the control authority access thereto. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or the city's POTW or when requested by the TDEC or EPA.;

(xii) Requirements for submission of technical reports or discharge reports (see 18-205(4));

(xiii) Requirements for notification of the control authority of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(xiv) Requirements for notification of slug discharges. All categorical and non-categorical industrial users shall notify the control authority immediately of all discharges that could cause problems to the control authority, including any slug loadings, in accordance with § 18-202(10); and

(xv) Other conditions as deemed appropriate by the control authority to ensure compliance with this ordinance.

(e) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing

permit. The terms and conditions of the permit may be subject to modification of the control authority during the term of the permit as limitations or requirements as identified in § 18-202 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of any change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the control authority. Any succeeding owner or user shall receive a copy of and also comply with the terms and conditions of the existing permit.

(4) Reporting requirements for permittee. (a) Baseline monitoring reports. Within either one hundred eighty days (180) after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the control authority a report which contains the information listed below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the control authority a report which contains the information listed in below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

Users described above shall submit the information set forth below.

(i) The name and address of the facility, including the name of the operator and owner.

(ii) A list of any environmental control permits held by or for the facility.

(iii) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

(iv) Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to

allow use of the combined wastestream formula in accordance with 40 CFR 403.6(e).

(v) Measurement of pollutants.

(A) The user shall provide the information required in § 18-205(3)(b)(iii).

(B) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.

(C) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the control authority;

(D) Sampling and analysis shall be performed in accordance with § 18-205(4)(c)(iii);

(E) The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(F) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(vi) Compliance certification. A statement, reviewed by the user's authorized representative as defined in § 18-201(2) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(vii) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment

standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-205(3)(b)(vi) of this ordinance.

(viii) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-205(4)(v) of this ordinance and signed by an authorized representative as defined in § 18-201(2).

(b) Compliance date 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 user subject to pretreatment standards and requirements shall submit to the control authority a report indicating the nature and concentration of all pollutants in the discharge from the regulated processes which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed and certified in accordance with § 18-205(4)(e) by an authorized representative of the user as defined in § 18-201(2).

(c) Periodic compliance reports. (i) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or in the case of a new source, after commencement of the discharge into the potw, shall submit to the control authority during the months of June and December, unless required more frequently in the pretreatment standard or by the control authority, a report indicating the nature and concentration of pollutants in the effluent and the measured or estimated average and maximum daily flows for the reporting period, which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported in the permit application. At the discretion of the control authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the control authority may agree to alter the months during which the above reports are to be submitted. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the control authority or the pretreatment standard necessary to determine the compliance status of the user.

(ii) The control authority may impose mass limitation on users which the control authority has reason to believe are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the periodic compliance report required by sub-paragraph (i) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the significant industrial user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the control authority, of pollutants contained therein which are limited by the applicable pre-treatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit.

(iii) All analyses shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR, part 136 and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator. Where 40 CFR part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication "Sampling and Analytical Procedures for Screening of Industrial Effluents for Priority Pollutants," dated April, 1977 and amended thereto, or with any other sampling and analytical procedures approved by the administrator.

(iv) All periodic compliance reports must be signed and certified in accordance with § 18-205(4)(e).

(d) Permit limit violations. If sampling performed by a user indicates a violation, the user shall notify the control authority within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis for the parameter(s) violated and submit the results of the repeat analysis to the control authority within thirty (30) days after becoming aware of the violation. The user shall also provide written notice of the violation within five (5) days of becoming aware of the violation.

(e) Certification statements. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-205(3)(b), baseline monitoring reports under§ 18-205(4)(a), compliance date reports under § 18-205(4)(b), and periodic compliance reports required by § 18-205(4)(c).

The following certification statement must be signed by an authorized representative as defined in § 18-201(2):

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.

(5) Monitoring facilities The control authority shall require to be provided and operation at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the control authority may, when such location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the control authority's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the control authority.

(6) Inspection and sampling. The control authority shall inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the control authority or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The control authority, state, and EPA shall have the right to set up on the user's property such devices as are necessary for them to conduct sampling inspections, compliance monitoring and/or metering operations.

The control authority will establish those pollutants to be sampled, at the users expense, at the prescribed minimum frequency shown in the user's permit. The user must collect samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling

or grab sampling is authorized by the control authority. Where time-proportional sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field: for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR part 136 as amended. Where 40 CFR part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication "Sampling and Analytical Procedures for Screening of Industrial Effluents for Priority Pollutants," dated April, 1977 and amended thereto, or with any other sampling and analytical procedures approved by the administrator. The user shall submit monitoring reports to the control authority of those priority pollutants to be sampled at the frequency prescribed in the wastewater contribution permit. The results of any and all sampling of the user's discharge shall be reported, including sampling which exceeds the required minimum frequency. Failure to comply with these requirements may result in enforcement action as set forth in § 18-208.

For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in § 18-205(4), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the control authority may authorize a lower minimum. For the reports required by paragraphs § 18-205(4), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the city, state, and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(7) Pretreatment. Users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as

specified by the Federal Pretreatment Regulations. Any facilities required to pretreat wastewater to a level acceptable to the control authority shall be provided, operated and maintained at the user's expense. Detailed plans prepared by a professional engineer registered in the State of Tennessee showing the pretreatment facilities and operating procedures shall be submitted to the control authority for review, and shall be acceptable to the control authority before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the control authority under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the control authority prior to the user's initiation of the changes.

All records relating to compliance with pretreatment standards shall be made available to officials of the city, EPA or state upon request.

(8) Confidential information. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the control authority that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon request to the state and/or EPA for uses related to this ordinance, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state, any state agency, or the EPA in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(9) Public notification. In compliance with 40 CFR part 403.8, the control authority must annually publish in the local newspaper a list of industrial users which, during the previous twelve (12) months, were in significant non-compliance with the pretreatment program requirements. (Ord. #2021-42, Dec. 2021)

18-206. Building sewers and connections. (1) Application for sewer service. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any POTW or appurtenances thereof. Authorization may be obtained from the control authority upon review of pertinent plans and payment of the appropriate fees.

The customer or his/her agent shall make application at the customer service department. The application shall be supplemented by any plans, specifications or other information such as grease traps needed by restaurants, dining halls or other types of eating establishments, considered pertinent in the judgment of the control authority. A fee schedule is in effect for all connections, said fees shall be paid to the control authority at the time the application is filed. Applicants for non residential sewer service shall provide a description of the constituents of the waste and may be required to provide a laboratory analysis of the waste, or of a similar waste stream if there are other facilities in operation.

(2) Connections. All costs and expense incident to the installation and connection of the building sewer shall be borne by the customer. The customer shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The connection to the POTW shall be inspected by the control authority before the underground portion is buried.

(3) Installation and maintenance. The new building sewer may be brought into the building below the basement floor when gravity flow from the building to the POTW at a minimum grade consistent with the requirements of the control authority is possible. Where basement or floor elevations to be served are lower than the ground overflow elevation of the upstream manhole of the POTW line servicing the property, adequate precautions by the installation of check valves or other approved backflow prevention devices to help protect against flooding shall be provided by the owner. The control authority shall have the right to review and approve all check valves and backflow prevention devices. Said check valves or backflow prevention devices shall be located such as to provide access for maintenance and shall be installed in a valve pit to allow access without excavation for normal maintenance operations. In all buildings in which a building drain is too low to permit gravity flow to the POTW, wastes carried by said building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the customer. Pumps or other devices shall be reviewed and approved by the control authority.

No person shall make connection of roof down spouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a build sewer or building drain which in turn is connected directly or indirectly to the POTW. If, during periodic system inspections, the city locates a point of entry of infiltration/inflow in an owner's building sewer, the owner shall repair the defect(s) at his/her own expense and furthermore notify the city upon completion so that an inspection of the repair can be made prior to covering of the repair.

All excavation for building sewer installation shall be adequately guarded with barricades and lights or other means so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the

course of the work shall be restored in a manner satisfactory to the control authority.

All building connections and maintenance shall be subject to the currently adopted version of the *International Plumbing Code*[1] by ICC, as amended by the City of Maryville and the Rules, Regulations, Rates and Policies of the City of Maryville Water and Sewer Department. The Rules, Regulations, Rates and Policies of the City of Maryville Water and Sewer Department are available on the city's website and on file with the State of Tennessee. In cases of conflict the stricter requirements shall rule. (Ord. #2021-42, Dec. 2021)

18-207. Grease, oil and sand traps and separators. (1) General requirements. Gravity-type separators, interceptors or other such devices for the removal of oil, grease, sand, grit, glass, entrails or other such material likely to create or contribute to a blockage of the wastewater collection system or otherwise interfere with the operation of the POTW are required at commercial sources where required by the *International Plumbing Code* or where required by other ordinance or regulation of the City of Maryville. Such devices shall be of a type and capacity approved by the control authority and shall be located as to be readily and easily accessible for cleaning, pumping and inspection.

(2) Design, review and approval of traps and separators. During the site plan review conducted by the City of Maryville personnel of proposed commercial and industrial developments, the need for traps or separators will be determined. If a trap or separator is required, detailed plumbing plans shall be submitted to the control authority prior to commencement of construction.

Minimum grease trap size shall be one thousand (1,000) gallons.

All grease traps shall meet design criteria as described in rules, regulations, rates and policies manual. Persons wishing to install precast concrete septic tanks or concrete tanks shall submit to the control authority design drawings. A field inspection shall be required to ensure the installation complies with the approved drawings and adequate baffling was installed.

(3) Exemptions. Commercial sources in operation prior to January 19, 1993 are excluded from the minimum requirements of this section, but shall be required to install and maintain a gravity-type separator, interceptor or other such device at the kitchen sink for removal of oil and grease. Such devices shall be the largest type available that will fit under the sink and shall not be connected to any dishwashers. Such devices will be allowed to remain in service until such time as the control authority determines the device is not preventing prohibited substances from entering the POTW or the device is not being maintained with adequate frequency. If the control authority makes such a

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[1]Municipal code reference
Plumbing code, title 12, chapter 2.

determination, the establishment shall install a device in full compliance with this section.

(4) Maintenance of traps and separators. It shall be the duty of every establishment required to have traps or separators to maintain the devices, have the devices pumped whenever the level of grease or other substance has reached the top of the effluent pipe from the device, or when it appears to the control authority that prohibited substances are leaving the device and are being discharged into the POTW.

Each establishment is required to maintain a maintenance log with an original copy of the manifest on all traps and separators. The log shall show the date of all cleanings, the name of the person and organization performing the cleaning and the disposition of the removed substances. The establishment must obtain a manifest confirming the pumping, hauling, and disposal of waste from the hauler. The maintenance log and manifests shall be available during business hours for examination by the control authority. Failure to comply with the reporting requirements shall be deemed a violation of this chapter of the Maryville Municipal Code.

(5) Disposal of trap and separator wastes. Acceptable disposal options for the wastes removed from traps and separators include recycling collectors and trash disposal or commercial collectors. Disposal methods shall comply with all state all local regulations.

(6) Periodic inspection of traps and separators. Personnel from the City of Maryville shall be permitted ready access to inspect all traps and separators for compliance with the Municipal Code. If found in violation, the user shall be issued a seven (7) day notice to come into compliance. Failure to correct noncompliance within the seven (7) day period will result in termination of water service. If termination of water service will possibly result in a threat to public health, the trap or separator will be pumped and cleaned by City of Maryville personnel. The user shall reimburse the City of Maryville for all labor, equipment, supplies and disposal costs incurred by the city to pump and clean the trap or separator. The charges will be added to the user's utility bill.

(7) Charges and fees. Users required to install and maintain a gravity-type separator, interceptor or other such device shall be subject to an annual fee as required by the current water and wastewater rate schedule. All fees will appear on the user's utility bill. In the event that the user fails to pay the fee, water service shall be terminated until such time as all fees and any other charges, including late charges, have been paid.

(8) Violations. Any person who willfully or negligently violates any provision of this section or any orders or permits issued hereunder shall be subject to enforcement action as set forth in § 18-208 herein. (Ord. #2021-42, Dec. 2021)

18-208. Enforcement. (1) Enforcement policy. All enforcement actions taken by the control authority against users that are in violation of this

ordinance shall be in accordance with the City of Maryville's Pretreatment Enforcement Response Plan,[1] as adopted and amended by the Maryville City Council, and with *Tennessee Code Annotated*, § 69-3-123 through 69-3-129, from which the authority for such action is derived.

(2) Administrative enforcement remedies. (a) Notification of violation. Whenever the control authority finds that any user has violated an order of the control authority or willfully or negligently failed to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder, the control authority may serve upon such person a written notice by registered mail stating the nature of the violation. Within ten (10) days of the date of the notification of violation, a plan for the satisfactory correction thereof, to include specific required actions, shall be submitted to the control authority by the user. Submission of this plan in no way relieves the user of liability for any violation occurring before or after the receipt of the notice of violation.

(b) Consent orders. The control authority 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 period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to § 18-207(2)(d) and (e), below.

(c) Show cause hearing. The control authority may order any user who causes or allows an unauthorized discharge to enter the POTW or contributes to violation of this ordinance or wastewater permit or order issued hereunder, to show cause before the hearing authority why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting to be held by the hearing authority regarding the violation, the proposed enforcement action and the reasons for such action, and directing the user to show cause before the hearing authority 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 principal executive, general partner or corporate officer. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

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[1]The Enforcement Response Plan for the City of Maryville is at the end of the code as Appendix A.

The hearing authority may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the city to:

(i) Issue in the name of the hearing authority notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Take the evidence;

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the hearing authority for action thereon.

At any hearing held pursuant to this ordinance, testimony taken shall be under oath and may, at the request of either party, be recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

After the hearing authority has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and/or these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued, including the installation of pretreatment technology, additional self-monitoring and management practices.

Decisions of the hearing authority may be appealed to the appeal authority within thirty (30) days. If an appeal is not made to the local appeal authority within thirty (30) days of notification of such decision, user shall be deemed to have consented to such decision and it shall become final.

(d) Compliance order. In accordance with *Tennessee Code Annotated*, § 69-3-123, when the control authority finds that a user has violated an order of the control authority or willfully or negligently failed to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder, an order may be issued to the User responsible for the discharge directing that, following a specific 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 as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices.

(e) Cease and desist order. In accordance with *Tennessee Code Annotated*, § 69-3-123, when the control authority finds that a user who

is found to have violated an order of the control authority or who willfully or negligently failed to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder, the control authority may issue an order to cease and desist all such violations and direct those persons in noncompliance to: (i) comply forthwith; (ii) take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(f) Administrative penalties. Any user who is found to have violated an order of the control authority or who willfully or negligently failed to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder shall be fined not more than ten thousand dollars ($10,000.00) per day as authorized by *Tennessee Code Annotated*, § 69-3-115 for each offense. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. In addition to the fines provided herein, the control authority may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person found to have violated this ordinance or the orders, rules regulations and permits issued hereunder. Such assessments may be added to the user's next scheduled sewer service charge, and the control authority shall have the same collection remedies that the city has to collect service charges.

(g) Emergency suspension. The control authority may, without notice, suspend the wastewater treatment service and/or a wastewater discharge permit of a user when such suspension is necessary, in the opinion of the control authority, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit.

Any user notified of a suspension of the wastewater treat-ment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the control authority shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The control authority shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge, unless the termination proceedings set forth in § 18-207(2)(h). are initiated against the user.

Any user whose wastewater treatment service and/or wastewater discharge permit is suspended shall submit a detailed written statement

describing the cause of the harmful contribution and the measures taken to prevent any future occurrence to the control authority within five (5) days of the occurrence.

(h) Revocation of permit. Any user who is found to have violated an order of the control authority or who willfully or negligently failed to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder or any applicable State and Federal regulations, is subject to having his permit revoked in accordance with the procedures of this section of this ordinance:

(i) Violation of conditions of the permit;

(ii) Failure of a user to accurately report the wastewater constituents and characteristics of his discharge;

(iii) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics; or

(iv) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.

(3) Judicial remedies. (a) Legal action. If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system, in any other way violates this sewer use ordinance or its industrial wastewater discharge permit, contrary to the provisions of this ordinance, federal or state pretreatment requirements, or any order of the control authority, the control authority, through the city attorney, may commence an action for appropriate legal and/or equitable relief in the chancery court for the county in which the violation occurred.

(b) Injunctive relief. Whenever a user is found to have violated an order of the control authority or willfully or negligently failed to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder, the control authority, through counsel, may initiate proceedings in the chancery court of the county in which the activities occurred for the issuance of injunctive relief or any other relief available in law or equity.

(c) Civil penalties. (i) Any user who is found to have violated an order of the control authority or who willfully or negligently failed to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder, shall be fined not more than ten thousand dollars ($10,000.00) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this ordinance or the orders, rules, regulations and permits issued hereunder.

(ii) (A) The control authority may assess any person or user for damages to the POTW resulting from that person's or user's pollution, violation, or failure or neglect in complying with any permit(s) or order(s) issued pursuant to the provisions of the pretreatment program, this ordinance, or *Tennessee Code Annotated*, §§ 69-3-123, 69-3-124, or 69-3-125.

(B) If any appeal from such assessment is not made to the local appeal authority within thirty (30) days of notification of such assessment, the person or User 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, this ordinance or *Tennessee Code Annotated*, §§ 69-3-123 through 69-3-129; in removing, correcting, and/or terminating any pollution; and also compensation for any actual damages caused by the pollution or violation.

(D) Whenever any assessment has become final because of a person's or user's failure to appeal within the time provided, the control authority may apply to the appropriate court for judgment, and seek execution of such judgment. The court, in such proceedings, shall treat failure to appeal such an assessment as a confession of judgment in the amount of the assessment.

(iii) The control authority may petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefits gained through the user's violation, corrective actions taken by the user, the compliance history of the user, and any other factors as justice requires.

(d) Criminal prosecution. Any user who is found to have violated an order of the control authority or who willfully or negligently failed to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a penalty not to exceed five hundred dollars ($500.00) per violation per day.

(4) Supplemental enforcement remedies. (a) Annual publication of significant violations. The control authority shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve (12) months, were in Significant

Non-compliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users which are found to be in significant violation in accordance with § 18-205(9) of this ordinance.

(b) Performance bonds. The control authority may decline to reissue a permit to any user who is found to have violated an order of the control authority or who willfully or negligently failed to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder unless such user first files with the control authority a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the hearing authority to be necessary to achieve consistent compliance.

(c) Liability insurance. The control authority may decline to reissue a permit to any user who has failed to comply with the provisions of this ordinance or any order or previous permit issued hereunder unless such user first submits proof that it has obtained financial assurances sufficient to restore or repair any POTW damage caused by its discharge.

(d) Water supply severance. Whenever a user is found to have violated an order of the control authority or willfully or negligently failed to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder, water service to the User may be severed and service will only recommence, at the user's expense, after the user has satisfactorily demonstrated its ability to comply.

(e) Public nuisances. Any violation of the prohibitions or effluent limitations of this ordinance or any permit or order issued hereunder is hereby declared a public nuisance and shall be corrected or abated as directed by the control authority. Any person(s) creating a public nuisance shall be subject to the provisions of the city code governing such nuisances as well as all provisions of this ordinance, including reimbursing the city for any costs incurred in removing, abating or remedying said nuisance.

(f) Informant rewards. The control authority is hereby authorized to pay for information leading to the discovery of noncompliance by a user. In the event that the information provided results in an administrative penalty levied against the user, the control authority is authorized to disperse up to ten percent (10%) of the collected penalty to the informant up to a maximum of ten thousand dollars ($10,000.00) per reward payment.

(5) Affirmative defenses. (a) Treatment upsets. (i) Any user which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance or careless and improper operation, shall inform the control authority thereof

immediately upon becoming aware of the upset. Where such information is given orally, a written report shall be filed by the User within five (5) days. The report shall contain:

(A) A description of the upset, its cause(s), and impact on the discharger's compliance status;

(B) The duration or expected duration of noncompliance, including exact dates and times of noncompliance, and, if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored;

(C) All steps taken or planned to reduce, eliminate and prevent recurrence of such an upset.

(ii) A user which complies with the notification provisions of this section in a timely manner shall have an affirmative defense to any enforcement action brought by the control authority for any noncompliance with this ordinance, or any order or permit issued hereunder to the user, which arises out of violations attributable to and alleged to have occurred during the period of the documented and verified upset.

(b) Treatment bypasses. (i) A bypass of the treatment system or any portion thereof is prohibited unless all of the following conditions are met:

(A) The bypass was unavoidable in order to prevent loss of life, personal injury or severe property damage;

(B) There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and

(C) The user properly notified the control authority as described in § 18-208(5)(b)(ii) below.

(ii) Users must provide immediate notice to the control authority upon discovery of an unanticipated bypass. A written submission shall also be provided within 5 days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The control authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(iii) A user may request approval of the control authority for a bypass which does not cause pretreatment standards or requirements to be violated, but only if it is for essential

maintenance to ensure efficient operation of the treatment system. Users anticipating such a bypass must submit notice to the control authority at least ten (10) days in advance. The control authority may only approve the anticipated bypass if the circumstances satisfy those set forth in § 18-208(5)(b)(i). (Ord. #2021-42, Dec. 2021)

CHAPTER 3

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.[1]

SECTION

18-301. Definitions. The following definitions are adopted in this chapter:

(1) "City." The City of Maryville, Department of Water and Sewer..

(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 a building in such a manner that a flow of water into the water supply is possible either through the manipulation of valves, ineffective check or back pressure valves, or because of any other arrangement.

(3) "Hazard assessment." A detailed inspection of the facilities within a water customer's plumbing system.

(4) "Interconnection." Any system of piping or other arrangement whereby the city's water supply is connected directly with a sewer, drain, conduit or other device, which does carry or may carry sewage. (1999 Code, § 18-301, modified)

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[1]Municipal code references
Plumbing code: title 12.
Water and sewer system administration: title 18.
Wastewater treatment: title 18.

The regulations in this chapter are recommended by the Tennessee Department of Health for adoption by cities.

18-302. Regulations. Under no circumstances will a cross-connection, auxiliary intake, bypass, or interconnection be allowed unless approved by the city upon proof of compliance with the criteria set forth by the Tennessee Department of Environment and Conservation, Division of Water Supply and the provisions of this chapter. All commercial cross-connections will require backflow prevention assembly installation.

Authorized employees of the City of Maryville, with proper identification, shall have free access to all areas of a premises or building to which potable water is supplied for the purpose of conducting hazard assessments.

If a customer refuses access to their premises, the plumbing system shall be classified as a high hazard connection and appropriate protection shall be required at the service connection based on potential health hazards in accordance with regulations of the Tennessee Department of Environment and Conservation, Division of Water Supply. In this event the city will give the customer twenty-four (24) hours to allow access to their facility prior to such action being taken. Customers who do not comply to provide timely access within the time limit set forth shall have all water services terminated until compliance is met. (1999 Code, § 18-302)

18-303. Approved backflow prevention assemblies. (1) All backflow prevention assemblies used in the corporate limits and/or in the city's water system shall be fully approved and listed as acceptable by the Tennessee Department of Conservation, Division of Water Supply as to manufacturer, model, size, application, orientation and alterations. The assembly shall have a status of "passed" determined by performance evaluations to suffice as an approved backflow prevention assembly.

(2) There are three (3) categories for hazards for potential cross-connections:

(a) Health hazards;
(b) Non-health hazards; and
(c) Fire safety.

Reduced pressure principle assembly may be used for health hazards and non-health hazards. Double check valve assemblies may only be used for non-health hazards and is limited to class 1-3 fire systems only.

(3) The following assemblies will meet recommendations and requirements for protection of the water system, depending on the degree of hazard:

(a) Reduced pressure principle assembly;
(b) Reduced pressure principle detector assembly;
(c) Double check valve assembly; and
(d) Double check valve detector assembly. (1999 Code, § 18-303)

18-304. Installation and maintenance requirements for backflow prevention assemblies. Acceptable installation of backflow prevention

assemblies shall meet the criteria of the State of Tennessee and the following requirements:

(1) All backflow prevention assemblies installed on fire protection systems must be performed by person(s) possessing a fire sprinkler contractor license.

(2) All assemblies shall be installed in accordance with the manufacturer's installation instructions and by the State of Tennessee's installation guide unless such instructions are in conflict with the ordinance set forth by the city, in which case the city ordinance shall control. All assemblies shall possess all test cocks and fittings required for testing the assembly.

(3) Reduced pressure principle backflow prevention assemblies installed inside a premises shall be located so that the relief valve discharge port is a minimum of twenty-four inches (24"), plus nominal diameter of the supply line, above the finished floor level. The maximum height above the finished floor level shall not exceed seventy-two inches (72") and be positioned where discharge from a relief port will not create any adverse or undesirable conditions.

(4) Any backflow prevention assembly(s) installed inside a premises (i.e., basements, closets, fire riser rooms, mechanical rooms, etc.) shall have adequate lighting to provide for inspections and/or repairs.

(5) Backflow prevention assemblies installed outside a premises (i.e., irrigation devices, domestic assemblies located outside a facility or fire protection system assemblies) shall be located so that the relief valve discharge port of reduced pressure principle backflow prevention assemblies or lowest point of double check valve assemblies is a minimum of fourteen inches (14"), plus nominal diameter of the supply line, above the finished grade level/surface. The maximum height above the finished grade level shall not exceed seventy-two inches (72").

(6) All reduced pressure principle backflow assemblies installed inside a premises shall have adequate drainage and be equipped with a drain line from the relief valve that is a minimum of two (2) times the nominal diameter of the supply line of the backflow assembly.

(7) Clearance from wall surfaces or other obstructions for backflow prevention assemblies shall be a minimum of six inches (6"). However, if a person must enter an enclosure to repair or test, the minimum distance shall be twenty-four inches (24").

(8) Backflow prevention assemblies devices shall be adequately protected from freezing, vandalism, theft, and mechanical abuse, overgrowth of vegetation and from any corrosive, sticky, greasy, abrasive or other damaging substances.

(9) Backflow prevention assemblies devices shall be accessible to the city at all times. Assemblies shall not be installed in areas such as locked enclosures, fenced areas, backyards, pool houses, garages, under decks, porches, or in heavy shrubbery that could be damaged due to the testing process.

(10) An approved air gap shall separate the relief port from any drainage system. Such air gap shall not be altered without the specific approval of the city.

(11) Backflow prevention assemblies devices shall be located in an area free from submergence or flood potential and cannot in any circumstances be located in a pit or hole.

(12) All backflow prevention assemblies devices shall be adequately supported to prevent sagging or swaying.

(13) An approved strainer shall be installed immediately upstream of all backflow prevention assemblies or shutoff valve, except on fire lines, using only noncorrosive fittings in the device's assembly.

(14) Where the use of water is critical for the continuance of normal operations, the protection of life, property and/or equipment, including, but not limited to, apartment or residential housing buildings, barber shops or beauty salons with four (4) or more chairs, dental or medical facilities, multi-tenant buildings served by a single water service line or restaurants, duplicate backflow prevention assemblies shall be provided to avoid the necessity of discontinuing water service to test or repair the backflow prevention assembly(ies).

(15) A device for the control of thermal expansion shall be installed on the customer's water system where the thermal expansion of the water in the system will cause the water pressure to exceed the pressure setting of the pressure relief valve of the water heater. The thermal expansion device shall control the water pressure to prevent the pressure relief valve of the water heater from discharging.

(16) Fire hydrant drains/weep holes shall not be connected to the sanitary sewer.

(17) Full-open valves, followed by a drain plug, shall be installed on the supply line of every irrigation system whether supplied off the customer's main domestic service line or by its own separate city public water supply meter prior to the irrigation backflow prevention assembly.

(18) Full-open valves shall also be installed on the discharge side of every irrigation backflow prevention assembly and must meet all requirements set forth in the city's *Rules, Regulations, Rates and Policies* manual.

(19) Where compressed air is used to winterize irrigation systems, proper fittings must be installed downstream of the irrigation backflow prevention assembly for that purpose.

(20) Irrigation backflow prevention assemblies must be installed and have water service up to the number two (2) shutoff valve of the assembly, whether or not the irrigation system is activated or in use, no later than May 1 of each year and remain in service until September 30 of each year to allow for required annual inspection and testing of the backflow prevention assembly. Irrigation systems with backflow prevention assemblies not installed or not in service during said period will be viewed as a failure of the annual inspection.

(21) Installation shall be at the sole expense of the owner or occupant of the premises. (1999 Code, § 18-304)

18-305. Fire protection systems. (1) An approved backflow prevention assembly shall be installed on each fire service line at the property line where possible. Alternatively, the approved backflow prevention assemblies shall be installed immediately inside the building served before the first branch line leading off the service line.

(2) Class 1, 2 and 3 fire protection systems shall require, at minimum, a double check valve assembly.

(3) Class 4, 5, and 6 fire protection systems shall require an air gap or a reduced pressure principle assembly as determined by the city.

(4) Where a fire sprinkler system is installed on the premises, a minimum of a double check valve assembly shall be required.

(5) Where a fire sprinkler system uses chemicals, such as liquid foam, to enhance fire suppression, a reduced pressure principle assembly shall be required.

(6) In any premises with an auxiliary water supply for fire protection, the city's public water system shall be protected by an air gap separation or a reduced pressure principle assembly.

(7) In the case of any premises where toxic substances are used for fire protection that could pose an undue health hazard, the city may require an air gap separation or reduced pressure principle assembly at the service connection to protect the city's public water system. (1999 Code, § 18-305)

18-306. Lawn irrigation systems. (1) For all public water systems to protect their distribution system, lawn irrigation systems will be protected by a reduced pressure principle assembly or reduced pressure principle detector assembly.

(2) Double check valves cannot be used for lawn irrigation systems for either public or well water systems. (1999 Code, § 18-306)

18-307. Assembly evaluations and testing. (1) All backflow prevention assemblies used to protect the city's public water supply system must be inspected and tested on every new and repaired assembly before its acceptance by the city and before use.

(2) All backflow prevention assemblies must be tested no less than once every twelve (12) months or more often as deemed necessary by the city.

(3) All backflow prevention assemblies will be tested by persons possessing a valid Certification of Competency in Testing and Evaluation of Backflow Prevention Assemblies issued by the Tennessee Department of Conservation, Division of Water Supply and using a valid test kit certification.

(4) Proof of annual test kit certifications and tester's certifications must be sent with each test report submitted to the city. Test reports must be compiled and accurately documented.

(5) If any test does not meet the minimum requirements set forth in the approved testing procedure, the assembly shall be deemed as "failed." Should conditions around the assembly not allow the assembly to be tested, the assembly shall be deemed as "failed."

(6) Documentation of backflow prevention assemblies, along with any assembly's location, make, model, size and serial number will be maintained by the city. If an existing assembly is replaced, the city shall be notified so that initial testing and documentation can be completed to ensure the protection of the city's public water supply system. (1999 Code, § 18-307)

18-308. Existing assemblies. (1) All backflow prevention assemblies which were installed prior to the adoption of the ordinance comprising this chapter and which met with the standards of the Tennessee Department of Conservation, Division of Water Supply, may at the sole discretion of the city, remain in service. However if the condition of the assemblies constitutes a health hazard or replacement is required of the assembly, such assembly will be brought up to current requirements as set forth in this chapter.

(2) Location or space requirements shall not be cause for relocation or replacement of any backflow prevention assembly that is installed as of the date of the adoption of the ordinance comprising this chapter so long as the location or spacing of the backflow assembly is installed in a safe location for testing and inspection purposes. (1999 Code, § 18-308)

18-309. Additional water source. Any person whose premises are supplied with water from the city's public water system who also has on the same premises a separate source of water, such as a well or an uncovered or unsanitary storage reservoir where water is circulated through a piping system, shall have the city's water source protected with an approved backflow prevention assembly. (1999 Code, § 18-309)

18-310. Plumbing. Prior to any new installation(s), alteration(s) or change(s) of any backflow prevention assembly connected to the city's public water supply, fire protection or any other purpose, a cross-connection permit from the city is required. (1999 Code, § 18-310)

18-311. Corrections of violations. (1) Where cross-connections, auxiliary intakes, bypasses, interconnections, or failed assemblies are in violation of this chapter, the premises shall be classified as a high risk hazard. The customer will be given a time certain by which to come into compliance.

(2) Failure to maintain a backflow prevention assembly or the removal, bypass or alteration of a protective device or installation without the

approval of the city, shall be cause for the denial, discontinuance, or termination of water service. The city shall give the customer written notification within five (5) business days that water services are to be discontinued. If necessary, the public water system shall be physically separated from the customer's system at the customer's expense to be added to the customer's water bill.

(3) Any repairs to backflow prevention assemblies shall be inspected and/or tested by persons possessing a certification of competency in testing and evaluation of backflow prevention assemblies.

(4) All expenses relating to correction of violations shall be borne by the utility customer. (1999 Code, § 18-311)

18-312. Fees. A fee shall be assessed for all backflow prevention assemblies requiring inspection or testing by the city's public water supply system, as well as for the disconnection and/or re-connection of water service for noncompliance with the provisions of this chapter. The amount of these fees shall be set and adjusted from time to time by the Council of the City of Maryville to reflect the cost of providing an effective cross-connection control program. (1999 Code, § 18-312)

18-313. Violations and penalty. Any person who fails to comply with any of the provisions of this chapter shall be subject to the general penalty clause of the city for each violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. The city may further resort to a court of equity to require compliance with this chapter. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporters' fees and any and all other expenses of litigation by appropriate suit at law or in equity against the violator of this chapter. (1999 Code, § 18-313)

CHAPTER 4

CONSTRUCTION STANDARDS FOR THE CITY OF MARYVILLE WATER AND SEWER DEPARTMENT[1]

SECTION

18-401. Construction standards adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating construction and repairs to the City of Maryville's water and wastewater systems within or without the municipality, the *Construction Standards for the City of Maryville Water Quality Control Department-February*, latest edition, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the "Water and Sewer Construction Standards."[2] (1999 Code, § 12-701, modified)

18-402. Violations and penalty. Any person, firm, corporation or agent who shall violate a provision of the Water and Sewer Construction Standards, or fail to comply therewith or with any of the provisions thereof, or violate a detailed statement or plan submitted and approved thereunder, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any of the provisions of these standards or any revisions thereof is committed or continued, and upon conviction of any such violation such person shall be fined not less than five dollars ($5.00) nor more than fifty dollars ($50.00) for each violation. (1999 Code, § 12-703, modified)

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[1]Municipal code references
Cross-connections: title 18.
Street excavations: title 16.
Water and sewer systems: title 18.

[2]This document (and any amendments) is available in the recorder's office.

TITLE 19

STORMWATER

CHAPTER

CHAPTER 1

LAND DEVELOPMENT AND PUBLIC WORKS STANDARDS[1]

SECTION

19-101. Adoption of standards. The rules and regulations of the City of Maryville entitled "Maryville Land Development and Public Works Standards," which have heretofore been enacted and is a public record of the municipality, be and the same is hereby adopted by reference as authorized under *Tennessee Code Annotated*, §§ 6-54-501, *et seq*. (1999 Code, § 19-101)

19-102. Available in recorder's office. At least one (1) copy of said public record shall be filed in the office of the Recorder of the City of Maryville and be kept therein available for public use, inspection, and examination.

The council of the City of Maryville hereby declares that pursuant to *Tennessee Code Annotated*, § 6-54-502, one (1) copy of said rules and regulations has been placed on file in the City of Maryville Recorder's Office for a period of fifteen (15) days prior to the passage of this chapter. (1999 Code, § 19-102)

19-103. Violations and penalty. These standards are enforceable in a court of equity through injunction or any other equitable means. Any person, firm, corporation, or agent violating or failing to comply with any provision or requirement of these standards shall be guilty of a civil offense. Additionally,

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[1]See Ord. #88-1, and any amendments thereto, of record in the recorder's office, for The Land Development Regulations of Maryville, Tennessee.

such violation further constitutes a violation of a city ordinance punishable in city court with a fine of up to fifty ($50.00) per day for violation. Enforcement powers of the city shall be to the maximum extent permitted by law. Pursuit of one (1) means of enforcement by the city as provided herein will not prevent pursuit of other additional means of enforcement of the provisions of this chapter. (1999 Code, § 19-103, modified)

CHAPTER 2

GRADING, SOIL EROSION AND SEDIMENTATION CONTROL

SECTION

19-201. Purpose. The City of Maryville has in the past experienced development causing the displacement of large quantities of earth. Soil erosion and sediment deposition can result from such development. Sediment is one (1) cause of the contamination of water supplies and water resources, and is a cause of pollution. A build-up of sediment can negatively impact resources, clog watercourses and cause flooding, which can result in damage to public and private lands. The result is a threat to the health, safety, and general welfare of the community. Therefore, the purpose of this chapter is to provide regulations within the City of Maryville to accomplish the following:

(1) To safeguard the health, safety, and general welfare of the citizens;

(2) To preserve the value of land throughout the city;

(3) To establish reasonable and accepted standards of design and procedures for development that prevent sediment damage;

(4) To prevent the pollution of streams, ponds and other watercourses by erosion and sediment deposition;

(5) To minimize property damage by means of flooding;

(6) To preserve the natural beauty and aesthetics of the community; and

(7) To enable the City of Maryville to comply with the NPDES general permit for discharges from small municipal separate storm sewer systems, TMDLs and other applicable state and federal regulations. (1999 Code, § 19-301)

19-202. Rules applying to chapter. For the purpose of this chapter, certain rules of construction shall apply herein as follows:

(1) Words used in the present tense shall include the future tense and the singular includes the plural, unless otherwise indicated in the text.

(2) The term "shall" or "must" is always mandatory and not discretionary. The words "may" and "should" are permissive in nature.

(3) Except as herein provided, all words used in this chapter shall have their common dictionary definition. (1999 Code, § 19-302)

19-203. Definitions. (1) "Applicant." Person submitting the application for a grading permit. Typically, this is the owner or operator of the land-disturbing activity.

(2) "Clearing." The removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. "Clearing" may also refer to wide area land disturbance in anticipation of non-construction activities; for instance, clearing forested land in order to convert forest land to pasture for wildlife management purposes. In the definition of discharges associated with construction activity, clearing, grading, and excavation do not refer to the clearing of vegetation along existing or new roadways, highways, dams, or power lines for sight distance or other maintenance and/or safety concerns, or cold planning, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces.

(3) "Construction related waste." Waste that is generated through construction, land development and land-disturbing activities that may cause adverse impacts to water quality. Construction related waste includes, but is not limited to, discarded building materials, concrete truck washout, chemicals, litter, hazardous materials, oil and sanitary waste at the construction site.

(4) "Cut and fill slopes." Sloped areas constructed by excavating or adding soil, rock or other materials.

(5) "Development." The process of grading, clearing, filling, quarrying, construction, or reconstruction to improved or unimproved real estate or other similar activities when not excluded by exemptions from this chapter.

(6) "Erosion." The wearing away of land by action of wind, water, ice, or gravity.

(7) "Erosion Prevention and Sediment Control plan (EPSC plan)." A formal plan for the control of soil erosion and sediment resulting from land-disturbing activity. The EPSC plan mirrors the SWPPP and shall be reviewed and approved before a grading permit may be issued. The plan may be included as part of a site plan required under another city ordinance or a separate plan following the specifications set out in this chapter.

(8) "Grading." Any operation or occurrence by which the existing site elevations are changed by cutting, filling, borrowing, stock piling, or where any ground cover, natural or human-made, is removed, or any building or other structures are removed or any watercourse or body of water, either natural or human-made, is relocated on any site, thereby creating an unprotected area. "Grading" shall be synonymous with "land-disturbing activity."

(9) "Grading permit." A permit issued to authorize excavation and/or fill to be performed under the guidelines of this chapter.

(10) "Grading policy manual." The document entitled *Grading and Construction Site Pollution Management Policies and Procedures Manual*. A document prepared and maintained by the City of Maryville which contains policies, procedures, technical criteria and guidelines and other supporting documentation or tools for implementation of the provisions of this chapter.

(11) "Land-disturbing activity." Any activity on private or public land that may result in soil erosion and the movement of sediments. "Land-disturbing activities" include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, logging and/or tree chipping operations, haul roads associated with the development, and excavation.

(12) "NPDES." National Pollutant Discharge Elimination System.

(13) "Operator." For the purpose of this chapter and in the context of stormwater associated with construction activity, "operator" means any person associated with a construction project that meets either of the following two (2) criteria:

(a) This person has operational control over construction plans and specifications, including the ability to authorize modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project; or

(b) This person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a site plan, EPSC plan or sketch plan for the site or other permit conditions. This person is typically a contractor or commercial builder and is often authorized to direct workers at a site to carry out activities required by approved plans or comply with other permit conditions.

(14) "Owner." The legal owner of the property as recorded in the Blount County Register of Deeds Office at the time of application of the grading permit.

(15) "Priority construction activity." Any land-disturbing activity that is one (1) acre or greater that discharges into, or immediately upstream of,

waters the State of Tennessee recognizes as impaired for siltation or habitat alterations, or are recognized by the State of Tennessee as Exceptional Tennessee Waters. Also, priority construction activities can include land-disturbing activities of any size that, in the judgment of the director of engineering and public works, or his/her designee, require coordination with adjacent construction activities or have conditions that indicate a higher than normal risk for discharge of sediment or other construction related wastes.

(16) "Project." The entire proposed development regardless of the size of the area of land to be disturbed.

(17) "Redevelopment." The improvement of a lot or lots that have been previously developed.

(18) "Sketch plan." An erosion prevention and sediment control plan required for land-disturbing activities that are greater than one-tenth (1/10) acre and less than one (1) acre.

(19) "Soil stabilization." Measures which protect soil from erosion.

(20) "Stormwater Pollution Prevention Plan (SWPPP)." A written plan required by, and prepared in conformance with, the State of Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.

(21) "Variance." A grant of relief from the requirements of this chapter that permit construction or activities in a manner otherwise prohibited by this chapter, where specified enforcement would result in unnecessary hardship. (1999 Code, § 19-303)

19-204. Authority. (1) The director of engineering and public works, or his/her designee, has the authority to promulgate rules, regulations, policies and guidance consistent with this chapter in order to carry out the meaning and intent in a *Grading and Construction Site Pollution Management Policies and Procedures Manual* (henceforth referred to as the "grading policy manual"). The policies, criteria and requirements stated in the grading policy manual shall be enforceable, consistent with other provisions of this chapter.

(2) In the event that the director of engineering and public works, or his/her designee, determines that a violation of any provision of this chapter has occurred, or that work does not have a required grading permit, or that work does not comply with an approved plan or grading permit, the director of engineering and public works, or his/her designee, may issue a notice of violation to the permittee or property owner, and/or any other person or entity having responsibility for construction work performed at a site development, at which time the penalty provisions of this chapter shall be implemented. (1999 Code, § 19-304)

19-205. Existing eroding areas. Upon written notification from the director of engineering and public works, or his/her designee, the owner or operator of a parcel of land which exhibits unstable or eroding soil conditions

shall correct the problem within the time specified in the written notice. This period may be extended upon request if conditions warrant. Minimum correction measures shall include soil stabilization and revegetation of all exposed soil surfaces and otherwise engaging in vegetative erosion prevention and sediment control practices. Before commencing corrective measures, the owner or operator shall consult with the director of engineering and public works, or his/her designee, to determine an acceptable method of correction. (1999 Code, § 19-305)

19-205. Grading permit required. No individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, county, city, or other political subdivision, cooperative, or any other legal entity shall engage in any land-disturbing activity within the corporate limits of the City of Maryville without meeting the requirements of this chapter, unless exempted under § 19-707.

(1) The owner or operator of the following land-disturbing activities must obtain a grading permit prior to commencing land-disturbing activities, unless exempted from this requirement under § 19-207:

(a) Any new development or redevelopment that will result in land-disturbing activity that is greater than one-tenth (1/10) of an acre.

(b) Installation, maintenance and repair of any underground public utility lines when such activities occur within fifty feet (50') of waters of the state.

(2) Owners or operators of land-disturbing activities are responsible for obtaining all applicable state and federal permits or approvals prior to requesting a grading permit from the City of Maryville.

(3) Land-disturbing activities not exempted under § 18-707 shall require:

(a) Grading permit application;

(b) Five (5) copies of an EPSC plan (required for land-disturbing activities equal to or greater than one (1) acre, including those activities less than one (1) acre that are part of a larger plan of development or sale), or one (1) copy of a sketch plan (required for land-disturbing activities less than one (1) acre), prepared in conformance with this chapter;

(c) Appropriate fee, if applicable;

(d) Review of the EPSC plan or sketch plan by the director of engineering and public works, or his/her designee, for compliance with City of Maryville regulations and policies;

(e) Grading permit;

(f) Site inspection, performed in accordance with this chapter; and

(g) Ongoing and final inspection.

(4) The director of engineering and public works, or his/her designee, may require land-disturbing activities that are less than one (1) acre to develop a full EPSC plan, as set forth in this chapter and the grading policy manual, as deemed necessary to protect streams and adjacent properties from erosion and off-site sediment deposition.

(5) Land-disturbing activities not exempted under § 18-707 of this chapter shall not commence until:

(a) The owner or operator obtains a Notice of Coverage (NOC) under the State of Tennessee General NPDES Permit for Discharge of Stormwater Associated with Construction Activities, or certification that the land-disturbing activity does not require coverage under the state permit, prior to obtaining a grading permit. A copy of the NOC and the associated Stormwater Pollution Prevention Plan (SWPPP) or certification that the site does not require coverage under the state permit must be submitted with the EPSC plan or sketch plan.

(b) The owner or operator obtains all applicable permits for the applicable development or redevelopment from state and federal agencies. A copy of the permit(s) obtained must be submitted with the EPSC plan or sketch plan. (1999 Code, § 19-306)

19-207. Exemptions. The exemptions listed in this section shall not be construed as exempting these land-disturbing activities from providing adequate erosion prevention and sediment control measures to protect adjoining property owners, nearby watercourses and the public right-of-way from sediment impacts. The owner or operator whose activities have been exempted from the requirements for a grading permit shall nevertheless be responsible for otherwise conducting all land-disturbing activities in accordance with the provisions of this chapter and other applicable laws, including responsibility for controlling erosion, sediment deposition and runoff. The director of engineering and public works, or his/her designee, may require owners or operators of exempt activities to obtain a grading permit as deemed necessary to protect adjacent properties or streams from erosion and off-site sediment deposition.

Grading permits are not required for the following land-disturbing activities:

(1) Installation, maintenance and repair of any underground public utility line when such activity has a land-disturbance less than one (1) acre, occurs on an existing right-of-way, and a cut or excavation permit has been obtained, except within fifty feet (50') of waters of the state, in which event a grading permit is required.

(2) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pasture land, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices.

(3) Emergency work to protect life or property. Upon completion of emergency work, the disturbed area shall be shaped and stabilized in accordance with this chapter. The city must be contacted within seventy-two (72) hours of the incident.

(4) Minor residential and land-disturbing activities such as home gardens and individual home repairs, landscaping, or maintenance work. (1999 Code, § 19-307)

19-208. Application and plan review process. (1) No grading permit shall be issued until an EPSC or sketch plan (if required) has been approved by the director of engineering and public works, or his/her designee.

(2) The EPSC plan shall comply with the requirements set forth in State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, this chapter and in the grading policy manual. The director of engineering and public works, or his/her designee, may require additional information if deemed necessary prior to reviewing a plan. (1999 Code, § 19-308)

19-209. EPSC and sketch plan required components. (1) EPSC plans submitted to the director of engineering and public works, or his/her designee, shall be prepared in accordance with the Tennessee construction general permit.

(2) EPSC plans submitted to the director of engineering and public works, or his/her designee, shall contain the required components of a SWPPP, as listed in and in accordance with the Tennessee general NPDES permit for discharges of stormwater associated with construction activities, and shall include any additional required elements listed in the grading policy manual and as applicable to the proposed land-disturbing activity.

(3) Sketch plans submitted to the director of engineering and public works, or his/her designee, shall contain the required components, as listed in and in accordance with the grading policy manual and as applicable to the proposed land-disturbing activity.

(4) The director of engineering and public works, or his/her designee, may request that additional information be submitted as necessary to allow a thorough review of the site conditions and proposed erosion prevention and sediment control measures.

(5) Omission of any required items shall render the plans incomplete, and they will be returned to the applicant prior to review by the director of engineering and public works, or his/her designee.

(6) All EPSC and sketch plans shall be developed by the owner or his/her agent.

(7) All EPSC plans shall be prepared and certified by qualified persons as set forth in the Tennessee general NPDES permit for discharges of stormwater associated with construction activities.

(8) Any legally protected state or federally listed threatened or endangered species and/or critical habitat located in the area of land-disturbing activities (if any) shall be identified in the EPSC plan. If such species are identified in the EPSC plan or by the city, then the EPSC plan shall also include written documentation from the United States Fish and Wildlife Service that indicates:

(a) Approval of the best management practices that will be utilized to eliminate potential impacts to legally protected state or federally listed threatened or endangered species and/or critical habitat. Said best management practices shall also be included on the EPSC plan; or

(b) A finding of no potential impact as a result of the proposed land-disturbing activity. (1999 Code, § 19-309)

19-210. Conformity and amendments to approved plans. (1) The approved EPSC or sketch plan, upon which subsequent permits may be issued by the City of Maryville, shall be adhered to during all grading and construction activities. Under no circumstance is the owner or operator allowed to deviate from the approved EPSC or sketch plan without prior approval of a plan amendment by the director of engineering and public works, or his/her designee.

(2) The director of engineering and public works, or his/her designee, shall require the grading permit holder to take corrective actions, which may include amendment of an approved EPSC or sketch plan, if it is determined that the approved plan does not adequately protect against erosion, off-site sediment deposition or discharges of other construction-related wastes despite the adherence of the owner or operator with approved protective practices.

(3) The owner or operator is required to resubmit an EPSC or sketch plan for approval by the director of engineering and public works, or his/her designee, if site plans or conditions change during land-disturbing activities.

(4) Plan amendments must comply with this chapter and the grading policy manual. (1999 Code, § 19-310)

19-211. Pre-construction inspection and meeting. (1) For all land-disturbing activities greater than one-tenth (1/10) acres, a grading permit shall be issued only after a pre-construction inspection by the director of engineering and public works, or his/her designee, indicates that perimeter erosion prevention and sediment control measures have been installed in accordance with the approved plan.

(2) Attendance at a pre-construction meeting with the director of engineering and public works, or his/her designee, prior to issuance of a grading permit is required for owners and operators of developments or redevelopments that are:

(a) New residential subdivisions;

(b) A priority construction activity, as defined in this chapter; or

(c) Will discharge stormwater runoff to exceptional Tennessee waters.

(3) Owners and operators of land development activities not listed in subsection (2) of this section may be required to attend a pre-construction meeting when coordination with adjacent construction activities is needed or when conditions indicate a higher than normal risk for pollutant discharges. (1999 Code, § 19-311)

19-212. Grading permits--time limitations, phasing and conditions. (1) Grading permits shall expire one (1) year from the date of permit issuance. After one (1) year, the grading permit will become null and void and the plan must be resubmitted for approval.

(2) If a tract is to be developed in phases, then a separate grading permit may be required for each phase.

(3) The issuance of a grading permit does not authorize the discharge of hazardous substances or oil resulting from a spill that occurs on the site of the land-disturbing activity. (1999 Code, § 19-312)

19-213. Documentation kept at the project site. Owners or operators of land-disturbing activities that require an EPSC or sketch plan shall keep the documentation listed below at the site of the land-disturbing activity from the date that the grading permit is approved to the date of termination of coverage of the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, as identified on the Notice of Termination (NOT). Owners or operators with day-to-day operational control over implementation of the EPSC or sketch plan shall have a copy of the plan available at a central location on-site for the use of all operators and those identified as having responsibilities under the plan whenever they are on the site of the land-disturbing activity:

(1) A copy of the approved EPSC or sketch plan;

(2) Documentation of inspection of the erosion prevention and sediment control practices located on the site of the land-disturbing activity, prepared in accordance with the inspection documentation requirements of State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities; or

(3) Any other records required by the Tennessee general NPDES permit for discharges of stormwater associated with constructed activities. (1999 Code, § 19-313)

19-214. Inspections. The owner or operator, or his/her designee, shall perform regular, documented inspections of the land-disturbing activity in accordance with the inspection requirements of the State of Tennessee NPDES

permit for discharges of stormwater associated with construction activities, this chapter and the *City of Maryville Grading and Construction Pollution Management Policies and Procedures Manual*. (1999 Code, § 19-314)

19-215. Bond requirements. (1) When reviewing any application for a grading permit, the city shall consider the past record of the permit applicant in complying with previous grading permits, plans, and this chapter. The city may require the permit applicant to post a performance bond prior to issuing the grading permit. If a permit applicant has had three (3) or more violations of previous permits or this chapter, as amended, within three (3) years prior to the date of filing of the application under construction with the city shall require a performance bond with the permit application.

(2) Upon forfeiture, the city at its election may use the performance bond proceeds or any part thereof to hire a contractor to stabilize and place erosion control measures on the site of the land-disturbing activity.

(3) A performance bond in the form of government security, cash, irrevocable letter of credit, or any combination must be provided for the following conditions:

(a) Rough grading, site development, large residential developments, or commercial development when there is a disturbed area greater than five (5) acres.

(b) Where there exists a substantial likelihood for runoff or sediment problems to adversely impact city rights-of-way, other property, or waters of the state.

(c) When a site drains into sinkholes or when the site is used for a borrow pit or waste area.

(4) Any bond amount shall be based on a remediation and completion estimate as determined by the director of engineering and public works, or his/her designee, based on the size of the disturbed area.

(5) The city may refuse brokers or financial institutions the right to provide surety bonds, letter of credit, etc. based upon past performance, ratings or the financial institution, or other appropriate sources of reference information.

(6) Within sixty (60) days of the final inspection, the balance of all bonds not extended or obligated shall be refunded or terminated except as otherwise provided therein.

(7) The performance bond is released upon receiving NOT from TDEC along with site visit and release approval by the director of engineering and public works, or his/her designee. (1999 Code, § 19-315)

19-216. Fees. The city council, at its discretion, may set fees for obtaining a grading permit. Such fee schedule may be established by resolution.

All development activities which require right-of-way cuts or excavation within the development site and shown on a site plan shall be subject to all

applicable fees. Grading activities which involve no construction or right-of-way cuts shall be subject to the grading permit fee schedule only.

After the city completes three (3) documented final land disturbance inspections requested by the permit holder for the same permit, a fee of fifty dollars ($50.00) shall be required for each additional inspection request of the same land disturbance permit. (1999 Code, § 19-316)

19-217. General criteria. The following general rights are minimum requirements for the control of pollutants from land-disturbing activities. All soil erosion prevention and sediment control measures and practices shall conform to the requirements of this chapter. The application or measures and practices shall apply to all features of the site including street, utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sediment pollution during all stages of any land-disturbing activity.

(1) Requirements for best management practices. Owners and operators of land-disturbing activities shall implement appropriate erosion prevention and sediment control Best Management Practices (BMPs) in accordance with the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities and the *Tennessee Erosion and Sediment Control Handbook*.

(2) Technical design criteria. The design of erosion prevention and sediment and pollution management controls, including BMPs, stabilization practices and structural practices, shall be performed in accordance with criteria and requirements stated in State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities and the *Tennessee Erosion and Sediment Control Handbook*, except where more stringent criteria are required by the director of engineering and public works, or his/her designee.

(3) Control measure construction and maintenance standards. The installation, inspection and maintenance of erosion prevention and sediment control practices, stabilization practices and structural practices shall be performed in accordance with the standards provided in the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities and the *Tennessee Sediment and Erosion Control Handbook*, latest edition, except where more stringent standards are required by the director of engineering and public works, or his/her designee. If periodic inspections or other information indicate that a control measure has been used inappropriately, or incorrectly, the owner or operator must replace or modify the control for relevant site situations.

(4) More stringent criteria or standards. The director of engineering and public works, or his/her designee, may require more stringent criteria and standards where deemed necessary to reduce the potential for pollution impacts

to streams, public property or adjacent property from sediment-laden stormwater runoff or discharges of other construction-related wastes.

(5) Control of other construction related wastes. Owners and operators of land-disturbing activities shall control other construction-related wastes, as defined in this chapter, in accordance with the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, except where more stringent criteria are required by the director of engineering and public works, or his/her designee. The discharge of such wastes in the stormwater discharges from a land-disturbing activity shall be prevented or minimized in accordance with the EPSC or sketch plan for the site of the activity.

(6) Installation of controls before grading begins. Erosion prevention and sediment controls and measures for the control of other construction-related wastes shall be in place and functional before earth moving operations begin, and must be constructed and maintained throughout land-disturbing activities. Temporary controls and measures may be removed at the beginning of the work day, but must be replaced at the end of the work day.

(7) Establishment of permanent vegetation. A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved in accordance with the final stabilization requirements of the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities and if the vegetation is, in the opinion of the director of engineering and public works, or his/her designee, mature enough to control soil erosion satisfactorily and to survive seasonal weather conditions. If it is determined by the director of engineering and public works, or his/her designee, that the vegetation will not withstand seasonal weather conditions, the release of unobligated monies or bonds shall be determined by the development standards board of appeals and may be reasonably delayed.

(8) Protection of adjacent properties. Sediment controls shall be designed to retain mobilized sediment on the site of the land-disturbing activity. Properties adjacent to the site of a land-disturbance activity shall be protected from sediment deposition. If sediment escapes the construction site, off-site accumulations of sediment that have not reached a stream must be removed at a frequency sufficient to minimize off-site impacts or in accordance with the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, whichever is more stringent. (For example, fugitive sediment that has escaped the construction site and has collected in a street must be removed so that it is not subsequently washed into storm sewers and streams by the next rain and/or so that it does not pose a safety hazard to users of public streets). Owners or operators shall not initiate remediation/restoration of a stream without first receiving approval from the City of Maryville and TDEC. Approval for remediation/restoration efforts from the City of Maryville does not authorize access to private property.

Arrangements concerning removal of sediment on adjoining property must be settled by the owner or operator with the adjoining landowner.

(9) Timing and stabilization of sediment trapping measures. Sediment basins and traps, perimeter dikes, and other measures intended to trap sediment on-site must be constructed as a first step in grading and be made functional before up slope land disturbance takes place. Earthen structures such as dams, dikes, and diversions must be stabilized within seven (7) days of construction or in accordance with the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, whichever is more stringent. These measures must be maintained in good working order and must remain in place until such time as the director of engineering and public works, or his/her designee, deems the area to be stabilized or in accordance with the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, whichever is more stringent.

(10) Sediment basins. Temporary sediment basins shall be designed in accordance with the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, except where more stringent criteria are required by the director of engineering and public works, or his/her designee. Any equivalent control measure that is substituted for a temporary sediment basin must be justified and approved by the director of engineering and public works, or his/her designee.

Permanent detention ponds that will be used as sediment basins during construction shall be designed so that the permanent detention pond outlet structure serves as the outlet structure of the sediment basin. All permanent detention ponds used as sediment basins shall be cleaned of loose sediments, re-graded to ensure design capacity, and stabilized prior to conversion. Converted detention ponds must be approved by the director of engineering and public works, or his/her designee, prior to release of bond. In addition, sod shall be used as the stabilization method on sediment basins that must remain in place for an indefinite period of time, such as during residential subdivision development. Sod shall be installed from the permanent pool elevation to the top of the berm. Stabilization measures other than sod may be approved by the director of engineering and public works, or his/her designee.

(11) Sodding detention ponds, ditches and draining swales. Sod shall be used on detention ponds, ditches and drainage swales, or if velocities warrant stabilization. Stabilization methods other than sod may be approved by the director of engineering and public works, or his/her designee. The owner or operator shall maintain sodded areas until vegetation is permanently established.

(12) Cut and fill slopes. Cut and fill slopes must be designed and constructed in a manner which will prevent erosion. Consideration must be given to the length and steepness of the slope, the soil type, up slope drainage area, groundwater conditions, and other applicable factors. Slopes which are

found to be eroding excessively within one (1) year of project completion must be provided with additional slope stabilizing measures until the problem is corrected.

The following guidelines shall be utilized to prepare and implement an adequate design for cut and fill slopes:

(a) Topsoil for the area should be stockpiled and then used for replacement on the graded area.

(b) Roughened soil surfaces are generally preferred to smooth surfaces on slopes.

(c) Diversions should be constructed at the top of long steep slopes which have significant drainage areas above the slope. Diversions or terraces may also be used to reduce slope length.

(d) Concentrated stormwater should not be allowed to flow down cut or fill slopes unless contained within an adequate temporary or permanent channel, flume, or slope drain structure.

(e) Wherever a slope face crosses a water seepage plane which endangers the stability of the slope, adequate drainage or other protection should be provided.

(f) Slopes three to one (3:1) or greater shall be stabilized with erosion control matting or other method(s) approved by the director of engineering and public works, or his/her designee. The owner or operator shall maintain matted areas until permanent vegetation is established.

(13) Working in or crossing watercourses. Construction vehicles shall be kept out of watercourses. The channel (including bed and banks) must always be re-stabilized immediately after in-channel work is completed. Where a live watercourse must be crossed by construction vehicles regularly during construction, a temporary stream crossing must be provided, the design of which must be approved by the director of engineering and public works, or his/her designee, and the State of Tennessee where appropriate.

(14) Underground utility construction. The construction of underground utility lines shall be subject to the following criteria:

(a) Where consistent with safety and space considerations, excavated material shall be placed on the uphill side of trenches.

(b) Trench dewatering devices shall discharge in a manner which will not adversely affect flowing streams, drainage systems, or off-site property.

(15) Temporary stone construction entrance. Wherever construction access routes intersect paved public roads, provisions must be made to minimize the transport of sediment by runoff or vehicle tracking onto the paved surface by installation of a temporary stone construction exit in accordance with the *Tennessee Erosion and Sediment Control Handbook*. The temporary construction exit shall be maintained for the duration of the project or until a permanent access drive is constructed. The stone layer shall be replaced or overlain with new stone when necessary to ensure that sediment is not transported off the site

of the land-disturbing activity. Where sediment is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day or more often if deemed necessary. Sediment shall be removed from roads by shoveling or sweeping and be transported to a sediment-controlled disposal area. Street washing shall be allowed only after sediment is removed in this manner.

(16) Disposition of temporary measures. All temporary erosion prevention and sediment control measures shall be disposed of within thirty (30) days after final site stabilization is achieved, or after the temporary measures are no longer needed, unless otherwise authorized by the director of engineering and public works, or his/her designee. Trapped sediment and other disturbed soft areas resulting from the disposition of temporary measures shall be properly disposed of and/or permanently stabilized to prevent further erosion and off-site sediment deposition.

(17) Stripping, clearing and grading to be minimized. Stripping of vegetation, re-grading, and other development activities shall be conducted so as to minimize erosion. Clearing and grubbing must be held to the minimum necessary. Pre-construction vegetative cover shall not be destroyed, removed, or disturbed more than ten (10) calendar days prior to grading or earth moving. Construction must be sequenced to minimize the exposure time of cleared areas. (1999 Code, § 19-317)

19-218. Variances. The director of engineering and public works, or his/her designee, may waive or modify any of the general criteria which are deemed inappropriate or too restrictive for site conditions by granting a variance as set forth herein. Variances may be granted in writing under the following conditions:

(1) At the time of plan submission, an applicant may request variances to become part of the approved erosion prevention and sediment control plan. The applicant must explain the reasons for requesting variances in writing. Specific variances which are allowed must be documented on the approved erosion prevention and sediment control plan.

(2) During construction, a permit holder may request variances to the approved erosion prevention and sediment control plan. Until such time as the amended plan is approved by the city, the land-disturbing activity shall not proceed, except in accordance with the erosion prevention and sediment control plan as originally approved.

(3) Absent universal circumstances, a response to the variance request should be given by the city within twenty (20) working days. Without a written approval, no variance shall be considered valid. (1999 Code, § 19-318)

19-219. Right of entry. The director of engineering and public works, or his/her designee, may enter upon any property which discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or the stormwater system; stream; natural drainage way; or other stormwater system

during reasonable hours to monitor, remove foreign objects or blockages, and to inspect for compliance with the provisions of this chapter. (1999 Code, § 19-319)

19-220. Unlawful acts. The following are unlawful acts, any person who may:

(1) Violate any provision of this chapter;

(2) Violate the provisions of any permit issued pursuant to this chapter;

(3) Fail or refuse to comply with any lawful notice to abate issued by the manager, which has not been timely appealed to the development standards board of appeals, within the time specified by such notice; or

(4) Violate any lawful order of the city or the development standards board of appeals within the time allowed by such order shall be guilty of a violation. Each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly. (1999 Code, § 19-320)

19-221. Notice of violation. Whenever the director of engineering and public works, or his/her designee, determines that a violation of any provision of this chapter has occurred, or that a land-disturbing activity is being performed without a required plan or permit, or that the land-disturbing activity does not comply with an approved plan or permit, the director of engineering and public works, or his/her designee, may issue a notice of violation to the property owner or operator, utility, facility operator, lessee, tenant, contractor, permittee, the equipment operator and/or any other person or entity doing work on the site of the land-disturbing activity. The notice of violation shall:

(1) Be in writing;

(2) Include a description of the property sufficient for identification of where the violation has occurred;

(3) List the violation;

(4) State the action required; and

(5) Provide a deadline for compliance or to stop work. (1999 Code, § 19-322)

19-222. Appeals. Appeal or review of a civil penalty or damage assessment under this chapter shall be made to the City Council of the City of Maryville by any person incurring a damage assessment or civil penalty. Such review shall be requested within thirty (30) days after the damage assessment or civil penalty is served by filing a written notice of appeal with the city manager's office. If a petition for review of such damage assessment or civil penalty is not filed within thirty (30) days after the damage assessment or civil penalty is served in any manner authorized by law, the violator shall be deemed to have consented to the damage assessment or civil penalty and it shall become final. The alleged violator may appeal a decision of the city council, pursuant to

the provisions of state law found in title 27, chapter 8. Upon receipt of an appeal, the city council shall hold a public hearing within sixty (60) days or a later date mutually agreed upon by both parties. Ten (10) days prior, notice of the time, date and location of said hearing shall be published in the *Maryville-Alcoa Daily Times* or its equivalent local paper. Ten (10) days' notice shall be provided to the aggrieved party at the address provided at the time of the appeal. (1999 Code, § 19-323)

19-223. Special fund created. All damages and civil penalties collected under this chapter, following adjustment for the expenses incurred in making such collections, shall be allocated and appropriated for the administration of the city's stormwater program. (1999 Code, § 19-324)

19-224. Violations and penalty. (1) Any person violating the provisions of this chapter shall be guilty of a misdemeanor and punished as provided in the general provisions of the city code. Each day that a continuing violation of this chapter is maintained or permitted to remain shall constitute a separate offense.

(2) Any person violating the provisions of this chapter may be assessed a civil penalty by the city of not less than fifty dollars ($50.00) nor more than five thousand dollars ($5,000.00) per day for each day of the violation. Each violation shall constitute a separate violation. The city may also recover all damages proximately caused to the city by such violation.

(3) In assessing the civil penalty, the city shall follow the provisions of the chart set forth herein and for any violation not listed may consider the following in determining the appropriate amount:

(a) The harm done to the public health or the environment;

(b) Whether the civil penalty imposed will be of substantial economic detriment to the illegal activity;

(c) The economic benefit gained by the violator;

(d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the municipality;

(f) The amount of penalty established by ordinance or resolution for specific categories for violations; and

(g) All equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) In addition to the civil penalty, the city may recover all damages proximately caused by the violator to the city which may include any reasonable expenses and attorney's fees incurred in investigating, enforcing and/or correcting the violations of this chapter.

(5) The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy in law or equity shall be

no defense to any such action. The city attorney may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to publicly owned stormwater facilities by any person.

(6) The remedies set forth in this section shall be cumulative, not exclusive, and is not to be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

(7) If the director of engineering and public works, or his/her designee, finds any person, firm, or entity has engaged in or directed land-disturbing activities without having obtained a required grading permit from the City of Maryville, the following shall occur:

(a) First offense. A stop work order and a notice of violation will be issued.

(b) If work continues. Assessment of civil penalties in the minimum amount of fifty dollars ($50.00) and a maximum amount of five thousand dollars ($5,000.00) for each day work continues without a grading permit.

(c) The permit fees will automatically double.

(8) If the director of engineering and public works, or his/her designee, finds any person, firm, or entity has engaged in or directed land-disturbing activities that is subject to the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities without having obtained the required NPDES permit, the following shall occur:

(a) First offense. A stop work order and a notice of violation will be issued. TDEC will be notified of the violation. The owner/operator will be required to obtain a grading permit per § 19-206(3). The stop work order will not be rescinded until the required NPDES and grading permits are obtained.

(b) If work continues. Assessment of civil penalties in the minimum amount of five hundred dollars ($500.00) and a maximum amount of five thousand dollars ($5,000.00) for each day work continues without the required permits.

(c) The permit fees will automatically double.

(9) Enforcement and penalties for all other violations of this chapter shall occur in the following manner:

(a) First offense. Written warning with a maximum of two (2) days for compliance. If conditions warrant in the judgment of the director of engineering and public works, or his/her designee, a stop work order will be immediately issued.

(b) Second offense. Notice of violation, stop work order, suspension of all city inspections until violation is corrected.

(c) Third offense. Notice of violation, stop work order, suspension of all city inspections until the violation is corrected, TDEC notification and the imposition of a civil penalty in accordance with the following:

Violation	Max. Penalty	Min. Penalty
Failure to obtain grading permit coverage	$5,000.00	$2,500.00
Notice of coverage and grading permit not posted on site	$5,000.00	$500.00
No SWPPP and/or EPSC plan on site	$5,000.00	$1,000.00
EPSC plan incomplete or not kept current with site conditions and best management practices	$5,000.00	$500.00
Failure to resubmit EPSC plan for approval (after direction to do so by the director of engineering and public works, or his/her designee)	$5,000.00	$500.00
EPSC measures not constructed in accordance with approved plan	$5,000.00	$1,000.00
EPSC measures not properly maintained	$5,000.00	$1,000.00
Disturbance more than that allowed by the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities at one (1) time	$5,000.00	$1,000.00
Failure to designate and maintain buffer zone (where applicable)	$5,000.00	$1,000.00
Failure to have certified inspector	$5,000.00	$500.00
Failure to retain sediment on site	$5,000.00	$1,000.00
Pollutant (sediment or other construction related waste) discharge into waters of the state	$5,000.00	$2,500.00
Violating any other term or condition of this chapter and/or a stormwater NPDES permit	$5,000.00	$500.00

(d) An additional penalty of five hundred dollars ($500.00) shall be added to the schedule of penalties, up to a maximum of five thousand

dollars ($5,000.00), for any person or entity that has more than three (3) related offenses or has a documented history of three (3) or more offenses at multiple development or redevelopment sites in the City of Maryville.

(10) Any performance bond posted may be forfeited based on the circumstances if compliance is not achieved after notice of violation within the time specified in the notice. Any grading permit granted may also be suspended.

(11) All stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred, and the City of Maryville has released the stop work order after inspection of the site indicates conformance. Such notice shall be in writing and shall be given to the owner of the property, or an agent of the owner, or the person in charge of the job site, or conspicuously posted at the project location, and shall state the necessary corrective actions with a completion date before other activities can resume.

(12) Any person or entity who receives three (3) related written notices of violations shall be required to retake or, in the case of an entity, to have its management retake the Level I Fundamentals of Erosion Prevention and Sediment Control Workshop sponsored by the TDEC or approved equal. If after completing the course again, the same person or entity receives a subsequent written environmental violation within three (3) years of completing the course, requests for other city grading permits will be denied to that person. The person may appeal within thirty (30) days of the denial by requesting a hearing by the city manager, or his designee, to attempt to obtain the desired permits. (1999 Code, § 19-321)

CHAPTER 3

RULES, RATES AND CHARGES FOR THE STORMWATER UTILITY SERVICE

SECTION

19-301. Rules, rates, and charges adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 68-221-1101 to 68-221-1113, and for the purpose of providing stormwater management operations and establishing a stormwater utility service charge within the City of Maryville, the *Rules, Rates, and Charges for the Stormwater Utility Service Charge* are hereby adopted and incorporated by reference as part of this code. (1999 Code, § 19-501)

19-302. Findings. The Council of the City of Maryville makes the following additional findings:

(1) An equitable approach to funding stormwater management services and facilities can be provided by adopting a schedule of service charges upon properties that is related to the burden of stormwater quantity and quality control service requirements and costs posed by properties throughout the city.

(2) Such schedule of service charges can be complemented by other funding methods that address specific needs, including, but not limited to, allocations of local option sales taxes to stormwater drainage improvement projects, collection of fees for special services including, but not limited to, plan reviews and inspections, and establishment of a capital recovery fee or fees consistent with state law.

(3) A service charge credit is an appropriate means of adjusting service charges in recognition that private stormwater systems and/or actions can effectively reduce or eliminate the burden of stormwater quantity and quality control service requirements and costs that a property or properties pose for the

city. In addition, the value to the stormwater utility of certain actions and practices performed by property owners and other stormwater utility customers may be recognized by credits based on other factors, including, but not limited to, the avoided cost of public information and education realized by the utility when public information and education about stormwater management is provided by the public school system.

(4) Impervious area is the most important factor influencing stormwater service requirements and costs posed by properties throughout the city, and therefore is an appropriate parameter for calculating stormwater service charges and associated credits. (1999 Code, § 19-502)

19-303. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Credit" means a conditional reduction in the amount of a stormwater service charge to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility, or the provision of a service or activity by the property owner, which system, facility, service, or activity reduces the stormwater utility's cost of providing stormwater services and facilities. Credits for on-site stormwater systems shall be generally proportional to the affect that such systems have on the peak rate of runoff from the individual property. "Credits" shall be defined and implemented in a *City of Maryville Stormwater Credit Policy Manual* which shall be produced by the city engineer, and changed as deemed necessary at the sole discretion of the city engineer.

(2) "Customers of the stormwater utility" includes all persons, properties, and entities served by and/or benefitting from the utility's acquisition, management, maintenance, extension, and improvement of the stormwater management programs, systems, and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served or benefitted as a result of the stormwater management program.

(3) "Detached dwelling unit" means developed land containing one (1) structure which is not attached to another dwelling and which contains one (1) or more rooms with a bathroom and kitchen facilities designed for occupancy by one (1) family. "Detached dwelling units" may include houses, manufactured homes, and mobile homes located on one (1) or more individual lots or parcels of land. Developed land may be classified as a detached dwelling unit despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings. "Detached dwelling unit" can also include developed land that has a non-residential use of a dwelling unit designed for occupancy for one (1) family, so long as such use does not result in additional impervious areas, such as parking spaces, impervious surfaced playgrounds, or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship, or similar

non-residential uses. "Detached dwelling unit" shall not include developed land containing: manufactured homes and mobile homes located within manufactured home or mobile home parks where the land is owned by others than the owners of the manufactured homes or mobile homes, or multiple-unit residential properties.

(4) "Developed land" means property altered from a natural state by construction or installation of more than two hundred (200) square feet of impervious surfaces as defined in this chapter.

(5) "Duplexes and triplexes" means developed land containing two (2) (duplex) or three (3) (triplex) attached residential dwelling units located on one (1) or more parcels of land.

(6) "Equivalent residential unit (ERU) of impervious area" means the median impervious coverage of detached dwelling unit properties in the City of Maryville as determined by the city, and shall be used as the basis for determining stormwater service charges to detached dwelling unit properties or classes of detached dwelling unit properties and other properties. Two thousand, four hundred (2,400) square feet of impervious area shall be one (1) equivalent residential unit (ERU).

(7) "Flood control facilities" means all natural and human-made conveyances and structures for which the partial or full purpose or use is to convey surface flood runoff water within the jurisdictional boundaries of Maryville. This includes all natural conveyances for which the city has assumed a level of maintenance responsibility, to which the city has made improvements against the flooding of which the city must make provision to protect public and private property, or for which the city is accountable under federal or state regulations for protecting the water quality within its jurisdictional boundaries.

(8) "Impervious surfaces" means those areas which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings.

(9) "Multiple dwelling unit residential properties" means developed land whereon four (4) or more attached residential dwelling units are located and shall include, but not be limited to, apartment houses, condominiums, townhomes, attached single-family homes, boarding houses, group homes, hotels and motels, retirement centers, and other structures in which four (4) or more family groups commonly and normally reside or could reside. In the application of stormwater service charge rates, multiple dwelling unit properties shall be treated as other developed lands. However, "multiple dwelling unit residential properties" where individual residential dwelling units are owned independently, such as residential condominiums, may be treated as detached dwelling unit properties in the application of stormwater service charge rates.

(10) "Other developed land" means, but shall not be limited to, multiple dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants.

(11) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration (other than infiltration contaminated by seepage from sanitary sewers or by other discharges) and drainage.

(12) "Stormwater management facilities" means those natural and human-made drainage structures, conveyances, conduits, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(13) "Stormwater service charge" means the stormwater management service charge or charges applicable to a parcel of developed land, which charge shall be reflective of the City of Maryville stormwater utility's cost of providing stormwater management services and facilities. Stormwater service charge may also be termed "stormwater utility service charge." (1999 Code, § 19-503)

19-304. Determination and modification of stormwater service charges. Stormwater service charges may be determined and modified from time to time by the Council of the City of Maryville so that the total revenue generated by said charges and any other sources of revenue that may be made available to the stormwater utility will be sufficient to meet the cost of services and facilities, including, but not limited to, the payment of principal and interest on debt incurred for stormwater management purposes, and such other expenses reasonably necessary or convenient in the acquisition, construction, operation, maintenance, and regulation of the stormwater system and of properties affecting the stormwater system. These fees shall be reasonable in amount and used exclusively by the municipality for purposes set forth in this chapter. Such a graduated stormwater user's fee shall be based on actual or estimated use of the stormwater and/or flood control facilities of the municipality, and each user or user class shall only be required to pay its proportionate share of the construction, administration, operation and maintenance including replacement costs of such facilities based on the user's actual or estimated proportionate contribution to the total stormwater runoff from all users or user classes. To ensure a proportionate distribution of all costs to each user or user class, the user's contribution shall be based on factors such as the amount of impervious area utilized by the user, the water quality of the user's stormwater runoff or the volume or rate of stormwater runoff.

The use of any particular parameter as a service charge rate parameter shall not preclude the use of other parameters, or of grouping of properties having similar characteristics through the use of ranges or rounding up or down to a consistent numerical interval, or the use of flat-rate charges for one (1) or more classes of similarly-situated properties whose impact on the stormwater utility's cost of providing stormwater management services and facilities are relatively consistent. Stormwater service charges may also include special charges to individual customers for services or facilities related to stormwater management, including, but not limited to, charges for development plan review, inspection of development projects and on-site stormwater control systems, and enhanced levels of stormwater services above those normally provided by the city. (1999 Code, § 19-504)

19-305. Effective date of stormwater service charges. Stormwater service charges shall accrue beginning January 1, 2004 and shall be billed periodically thereafter to customers except as specific exemptions and adjustments may apply. (1999 Code, § 19-505)

19-306. Stormwater service charges. In order to fully recover the cost of providing stormwater services and facilities while fairly and reasonably apportioning the cost among developed properties throughout the city, the following stormwater rates shall apply.

(1) Detached dwelling units. Detached dwelling units shall be charged the rate applicable to one (1) equivalent residential unit as specified in § 18-806(3), or as amended by ordinance in the future.

(2) Other developed lands. All developed lands not classified as detached dwelling units shall be billed for one (1) equivalent residential unit (ERU) as specified below in § 18-806(3) for each two thousand, four hundred (2,400) square feet of impervious surface or increment thereof, or as amended by ordinance in the future.

(3) The stormwater service charge rate per equivalent residential unit, as defined in this chapter, shall be three dollars and ninety-seven cents ($3.97) per month until and unless the service charge rate is changed by the Council of the City of Maryville. (1999 Code, § 19-506)

19-307. Exemptions and credits applicable to stormwater service charges. Except as provided in this section, no public or private property shall be exempt from stormwater utility service charges or receive a credit or offset against such service charges. No exemption, credit, offset, or other reduction in stormwater service charges shall be granted based on the age, tax, or economic status, race, or religion of the customer, or other condition unrelated to the stormwater utility's cost of providing stormwater services and facilities.

(1) The following exemptions from stormwater service charges shall be allowed:

(a) Undeveloped land, as defined this chapter, shall be exempt from stormwater charges;

(b) Railroad tracks shall be exempt from stormwater service charges. However, railroad stations, maintenance buildings, or other developed land uses for railroad purposes shall not be exempt from stormwater charges; and

(c) Improved public road rights-of-way of federal, state, or local governments that are available for vehicular transportation by the general public are exempt from stormwater service charges. Platted private roads and platted private rights-of-way are further exempt from stormwater charges.

(2) Stormwater service charge credits shall be allowed for the following activities/occurrences shall be effective when initiated at the discretion of the City of Maryville and in accordance with a credit manual described subsequently:

(a) Other developed lands that have, and maintain in proper working order, on-site stormwater detention and retention systems that reduce the peak rate of stormwater discharge.

(b) Detached dwelling units whose total impervious surface area is less than one thousand, eight hundred (1,800) square feet.

(c) Schools that teach approved water conservation curricula. This credit will be allowed at such time as the City of Maryville's NPDES Phase II permitted program is in place.

(d) Other developed lands that have, and maintain in proper working order, on-site stormwater best management practices that reduce the impact of stormwater runoff on water quality in accordance with water quality standards set forth by the City of Maryville. This credit will be allowed at such time as City of Maryville's NPDES Phase II permitted program is in place.

(e) Other developed lands that have, and maintain, a Tennessee Multi-Sector General Permit for industrial activities. This credit will be allowed at such time as the City of Maryville's NPDES Phase II permitted program is in place.

(3) A stormwater service charge credit manual shall be prepared by the City of Maryville Department of Engineering, Planning and Codes specifying the design and performance standards of on-site systems, facilities, activities, and services which qualify for application of a service charge credit, and how such credits shall be calculated.

(4) The stormwater service charge credit shall be determined based on the technical requirements and standards contained in the stormwater service charge credit manual. The stormwater service charge credit may be up to fifty percent (50%) of the service charge applicable to a property, and shall be proportional to the extent that on-site systems, facilities, services, and activities

provided, operated, and maintained by the property owner reduce or mitigate the stormwater utility's cost of providing services and facilities.

(5) Groups of detached dwelling units represented by a homeowner's association providing on-site systems or facilities that reduce or mitigate the stormwater utility's cost of providing stormwater management services and facilities may receive a stormwater service charge credit. The stormwater service charge credit shall be determined based on the technical requirements and standards contained in the stormwater service charge credit manual. The stormwater service charge credit available to groups of detached dwelling units may be up to fifty percent (50%) of the service charge applicable to the individual properties, and shall be proportional to the extent that on-site systems and facilities provided, operated, and maintained by the homeowner's association reduce or mitigate the stormwater utility's cost of providing services and facilities.

(6) Any credit allowed against the stormwater service charge is conditioned on continuing compliance with the city's design and performance standards as stated in the stormwater service charge credit manual and/or upon continuing provision of the systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. A credit may be revoked by the city at any time for noncompliance. Thirty (30) days notice of a noncomplying condition and intent to revoke a stormwater service charge credit shall be provided to the stormwater service charge customer receiving a credit before the credit is revoked, thereby allowing the customer the opportunity to attain compliance. (1999 Code, § 19-507)

19-308. <u>Stormwater service charge billing, delinquencies, and collections</u>. A stormwater service charge bill may be sent through the United States Mail or by alternative means, notifying all customers of the amount of the bill, the date the payment is due, and the date when past due.

Failure to receive a bill is not justification for non-payment. Regardless of the status of the party to whom the bill is initially directed, the owner of each parcel of developed land shall be ultimately obligated to pay the stormwater service fee. If a customer is under billed or if no bill is sent for developed land, the city may backbill for a period of up to ten (10) years, but shall not assess penalties for any delinquency. A late charge will be based upon the unpaid balance in accordance with the *City of Maryville Customer Service Policy Manual*. (1999 Code, § 19-508)

19-309. <u>Application of utility service charges billed in common</u>. Insofar as allowed by existing bond covenants of the stormwater utility charge is billed and collected along with other city utility services, any payment of utility service charges billed in common shall be applied to the customer's bill

as established through other related requirements imposed by TVA and the *City of Maryville Customer Service Policy Manual*. (1999 Code, § 19-509)

19-310. Removal or cessation of utility services. The City of Maryville may remove or cease to provide any utility services as it determines necessary to enforce the payment of all city utility service charges. (1999 Code, § 19-510)

19-311. Appeals. Any stormwater utility service customer who believes the provisions of this chapter have been applied in error may appeal in the following manner:

(1) An appeal must be filed in writing with the City of Maryville Department of Engineering, Planning and Codes. In the case of service charge appeals, the appeal shall include a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions which influence the hydrologic response of the property to rainfall events.

(2) Using the information provided by the appellant, the director of the department of engineering, planning and codes shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.

(3) In response to an appeal the director of the department of engineering, planning and codes may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of the chapter.

(4) A decision of the director of the department of engineering, planning and codes which is adverse to an appellant may be further appealed to the city manager within thirty (30) days of the adverse decision. Notice of the appeal shall be delivered to the city manager by the appellant, stating the grounds for the further appeal. The city manager shall issue a decision on the appeal within thirty (30) days. All decisions of the city manager shall be served on the customer personally or by registered or certified mail. Service shall be based upon the service charge billing address of the customer.

(5) A decision of the city manager that is adverse to an appellant may be further appealed to the city council within thirty (30) days of the adverse decision.

(6) The appeal process contained in this section shall not prevent an appellant from seeking relief in the approved manner and form from a court of competent jurisdiction. (1999 Code, § 19-511)

19-312. City of Maryville, Tennessee Stormwater Utility Credit Manual for Stormwater Fees. The *City of Maryville, Tennessee Stormwater Utility Credit Manual for Stormwater Fees*, is hereby adopted and incorporated by reference as part of the municipal code. A copy of this manual shall be

available for review and copying at the city recorder's office during regular business hours. (1999 Code, § 19-512, modified

CHAPTER 4

STORMWATER DISCHARGES

SECTION

19-401. Purpose. The purpose of the illicit discharge ordinance is as follows:

(1) To safeguard the health, safety, and general welfare of the citizens;

(2) To prevent the pollution of streams, ponds and other watercourses from illicit discharges;

(3) To preserve the natural beauty and aesthetics of the community; and

(4) To enable the City of Maryville to comply with the NPDES general permit for discharges from small municipal separate storm sewer systems, TMDLs and other applicable state and federal regulations. (1999 Code, § 19-601)

19-402. Rules applying to chapter. For the purpose of this chapter, certain rules of construction shall apply herein as follows:

(1) Words used in the present tense shall include the future tense and the singular includes the plural, unless otherwise indicated in the text.

(2) The term "shall" or "must" is always mandatory and not discretionary. The words "may" and "should" are permissive in nature.

(3) Except as herein provided, all words used in this chapter shall have their common dictionary definition. (1999 Code, § 19-602)

19-403. Definitions. The following phrases as used in this section shall contain the following definitions:

(1) "Construction." Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(2) "Illicit discharge." Any discharge to the stormwater system that is not composed entirely of stormwater and not specifically exempted in this chapter.

(3) "Industrial waste." Liquid or other waste resulting from any process of industry, manufacturer, trade or business, or from the development of any natural resources.

(4) "Other wastes." Discarded brush, sawdust, shaving, leaves, lawn clippings, animal waste, used or previously applied lime, garbage, trash, refuse, used newspaper, paper products, plastic containers or metal containers, ashes, offal, discarded tar, discarded paint, discarded or uncontained solvents, used, discarded or spilled petroleum products, antifreeze, motor vehicle fluids, used or discarded gas tanks or chemicals, or any other used, uncontained, unpackaged, or disposed of materials which may discharge to, or otherwise enter, the stormwater system.

(5) "Person." Any individual, firm, corporation, partnership, association, organization or entity, including governmental entities, or any combination thereof.

(6) "Pollutant hotspot." An area where the land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(7) "Restaurant." An establishment or facility where food is prepared and sold.

(8) "Runoff." The water resulting from precipitation that is not absorbed by the soil.

(9) "Sanitary sewer." A system of underground conduits that collect and deliver sanitary wastewater to a wastewater treatment plant.

(10) "Sanitary wastewater." Wastewater from toilets, sinks and other plumbing fixtures.

(11) "Sewage." Human wastes carried by water from residences, buildings, industrial establishments or other places, together with such industrial wastes, stormwater or other water as may be present; or any substance discharged from a sanitary sewer collection system.

(12) "Sinkhole." (a) A naturally occurring depression where drainage collects in the earth's surface that is a minimum of two feet (2') deep; or

(b) A hole, fissure or other opening in the ground, often underlain with limestone, dolomite or other rock formation that provides for, and is being designated as, a natural conduit for the passage of stormwater.

(13) "Stormwater." Rainfall or ice melt that is not absorbed by the ground.

(14) "Stormwater system." The system of roadside drainage, curbs and gutters, curb inlets, swales, catch basins, manholes, gutters, ditches, pipes, lakes, ponds, sinkholes, channels, creeks, streams, storm drains, and similar conveyances and facilities, both natural and human-made, located within the

city which are designated or used for collecting, storing, or conveying stormwater, or through which stormwater is collected, stored or conveyed, whether owned or operated by the City of Maryville or any other person. (1999 Code, § 19-603)

19-404. <u>Prohibitions</u>. (1) No person shall:

(a) Connect, or allow to be connected, any sanitary sewer to the stormwater system, including any sanitary sewer connected to the stormwater system as of the date of adoption of this chapter; or

(b) Cause or allow an illicit discharge to the stormwater system, or any component thereof, or onto driveways, sidewalks, streets, parking lots, sinkholes, creek banks, or other areas draining to the stormwater system. Illicit discharges include, but are not limited to:

(i) Sewage discharges except as deemed unavoidable due to collection system operation maintenance and extreme weather events;

(ii) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, or carpet cleaning;

(iii) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals at the point of entry of an enclosed stormwater system or stream, or discharges of pool or fountain filter backwash water;

(iv) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement-related equipment, or port-a-potty servicing;

(v) Discharges of wash water from the cleaning or hosing of impervious surfaces in industrial and commercial areas, including parking lots, streets, sidewalks, driveways, patios, plazas, work yards, or outdoor eating or drinking areas;

(vi) Discharges of heated water from commercial or industrial operations;

(vii) Discharges of dyes without proper permission;

(viii) Discharges of laundry wastewater;

(ix) Known discharges from leaking water or sewer lines remaining uncorrected for seven (7) days;

(x) Discharges or discarding of animal fecal waste or dead animals;

(xi) Discarding of vehicles equipment or vehicle parts;

(xii) Discarding lawn clippings, leaves or branches;

(xiii) Discarding trash or debris into containers or areas not intended for the purpose of trash/debris disposal;

(xiv) Discarding or applying herbicides, pesticides, fertilizers or other chemicals;

(xv) Discharges of runoff from materials storage areas where chemicals, fuels, grease, oils, or other hazardous materials are stored;

(xvi) Discharges from the following land uses, areas or activities that are identified herein as pollutant hotspots:

(A) Vehicle, truck or equipment maintenance, fueling, washing or storage areas including, but not limited to: Gas stations, automotive dealerships, automotive repair shops, and car wash facilities;

(B) Any property containing more than four hundred (400) parking spaces, or one hundred twenty thousand (120,000) square feet of impervious area;

(C) Recycling and/or salvage yard facilities;

(D) Restaurants, grocery stores and other food service facilities;

(E) Commercial facilities with outside animal housing areas, including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;

(F) Construction areas; and

(G) Other producers of pollutants identified by the director of engineering and public works, or his/her designee, by information provided to or collected by him/her, or his/her representatives, or reasonably deduced or estimated by him/her, or his/her representatives, from engineering or scientific study.

(2) Subject to the provisions of subsection (3), the following discharges shall not be in violation of this chapter:

(a) Water line flushing;

(b) Landscape irrigation;

(c) Diverted stream flows or rising groundwater;

(d) Infiltration of uncontaminated groundwater (as defined by federal regulations) to separate storm drains;

(e) Pumping of uncontaminated groundwater;

(f) Discharges from potable water sources, foundation drains, uncontaminated air conditioning condensation, irrigation waters, springs, water from crawl space pumps, or footing drains;

(g) Lawn watering;

(h) Individual noncommercial car washing on residential properties; or car washing of less than two (2) consecutive days in duration for a charity, nonprofit fund raising, or similar noncommercial purpose;

(i) Flows from riparian habitats and wetlands;

(j) Dechlorinated swimming pool discharges;

(k) Incidental street wash water from street cleaning equipment designed for cleaning paved surfaces and limiting waste discharges;

(l) Street deicing for public safety;

(m) Any activity authorized by a valid NPDES permit; and

(n) Any flows resulting from firefighting.

(3) If the director of engineering and public works, or his/her designee, finds that any of the activities listed in subsection (2) above are found to cause, or may cause, sewage or industrial wastes or other wastes to be discharged into the stormwater system, the director of engineering and public works, or his/her designee, shall notify the person performing such activity and shall order that such activities be stopped or conducted in such manner as to avoid improper discharge into the stormwater system. Failure to comply with such order shall be a violation of this section. (1999 Code, § 19-604)

19-405. Notification of spills and illicit discharges. As soon as any person has knowledge of any illicit discharge to the stormwater system in violation of this chapter, such person shall immediately notify the City of Maryville Stormwater Department by telephone of the discharge. If such person is directly or indirectly responsible for such discharge or responsible for the operation of the system involved in such discharge, then such person shall also take immediate action to ensure the containment and cleanup of such discharge and shall confirm such telephone notification with a written report to the stormwater department within three (3) calendar days. At a minimum, the written report for any illicit discharge shall include:

(1) Date and time of discharge.
(2) Location of the discharge.
(3) Material or substance discharged.
(4) Duration and rate of flow.
(5) Total volume discharged.
(6) Total volume recovered.
(7) Cause or reason of the discharge.
(8) Remediation or containment action taken.
(9) Material Safety Data Sheets (MSDS) for the discharged material.
(10) Action taken to prevent further discharges.
(11) Description of any environmental impact. (1999 Code, § 19-605)

19-406. Requirements for monitoring. The stormwater department may require any person engaging in any activity or owning any property, building or facility (including, but not limited to, at site of industrial activity) to undertake such reasonable monitoring of any discharge(s) to the stormwater system and to furnish periodic detailed reports of discharges and/or illicit discharges. (1999 Code, § 19-606)

19-407. Right of entry. The director of engineering and public works, or his/her designee, may enter upon the property which discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or to the stormwater system stream or natural drainageway during all reasonable hours to monitor, to remove foreign objects or blockages, or to inspect for compliance with the provisions of this chapter. (1999 Code, § 19-607)

19-408. Notice of violation. Whenever the director of engineering and public works, or his/her designee, determines that a violation of any provision of this chapter has occurred, the director of engineering and public works, or his/her designee, may issue a notice of violation to the property owner, utility, facility operator, lessee, contractor, permittee or equipment operator of the site of the discharge. The notice of violation shall:

(1) Be in writing;

(2) Include a description of the property sufficient for identification of where the violation has occurred;

(3) List the violation;

(4) State the action required; and

(5) Provide a deadline for compliance or to stop work. (1999 Code, § 19-608)

19-409. Violations and penalty. (1) Any person violating the provisions of his chapter shall be guilty of a misdemeanor and punished as provided in the general penalty clause of the city code. Each day of a continuing violation of this chapter shall constitute a separate offense.

(2) Any person violating the provisions of this chapter may further be assessed by the director of engineering and public works, or his/her designee, a civil penalty of not less than fifty dollars ($50.00) or more than five thousand dollars ($5,000.00) per day for each violation. Each day of violation shall constitute a separate offense.

(3) In assessing a civil penalty, the municipality may consider:

(a) The harm done to the public health or the environment;

(b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(c) The economic benefit gained by the violator;

(d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the municipality;

(f) The amount of penalty established by ordinance or resolution for specific categories of violations, if any; and

(g) The equities of the situation that outweigh the benefit of imposing any penalty or damage assessment.

(4) In addition to the civil penalty set forth in subsection (2) above, the city may recover all damages proximately caused by the violator to the municipality, including, but not limited to, reasonable expenses incurred in investigating violations and enforcing violations of this chapter.

(5) The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or in equity, shall be no defense to such actions.

(6) The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

(7) Any civil penalty assessed by the city may be appealed to the Blount County Circuit Court. (1999 Code, § 19-609)

CHAPTER 5

VEGETATED BUFFER ZONE AND STORMWATER QUALITY MANAGEMENT

SECTION

19-501. Purpose. The purpose of the stormwater quality management and vegetated buffers chapter is as follows:

(1) To apply to all areas located within the jurisdiction of the City of Maryville;

(2) To safeguard the health, safety, and general welfare of the citizens;

(3) To preserve the value of land throughout the city;

(4) To establish reasonable and accepted standards of design and procedures that prevent or reduce the discharge of pollutants from developed or redeveloped land;

(5) To preserve the natural beauty and aesthetics of the community; and

(6) To enable the City of Maryville to comply with the NPDES general permit for discharges from small municipal separate storm sewer systems, TMDLs and other applicable state and federal regulations. (1999 Code, § 19-701)

19-502. Rules applying to chapter. For the purpose of this chapter, certain rules of construction shall apply as follows:

(1) Words used in the present tense shall include the future tense and the singular includes the plural, unless otherwise indicated in the text.

(2) The term "shall" or "must" is always mandatory and not discretionary. The words "may" and "should" are permissive in nature.

(3) Except as herein provided, all words used in this chapter shall have their common dictionary definition. (1999 Code, § 19-702)

19-503. Definitions. (1) "Applicant." Person submitting the application for a grading permit. Typically, this is the owner or operator of the land-disturbing activity.

(2) "As-built drawings." As-built, field verified plans signed and sealed by a registered professional engineer and/or a registered land surveyor, both licensed to practice in the State of Tennessee, showing contours, elevations, grades, and location of drainage and hydraulic structures and permanent best management practices.

(3) "Best Management Practices (BMP or BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, water quality management facilities, structural controls and other management practices designed to prevent or reduce the pollution of waters of the United States and to provide water quality treatment and channel protection in accordance with

this chapter. Water quality BMPs may include structural devices, such as stormwater ponds, extended detention ponds or bioretention areas, or non-structural practices such as vegetated buffers, water quality buffers or natural open spaces.

(4) "Buffer enhancement plan." A plan required by the City of Maryville for any alteration to a water quality buffer.

(5) "City manager." The City Manager for the City of Maryville, Tennessee.

(6) "Construction." Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(7) "Construction related waste." Waste that is generated through construction, land development and land-disturbing activities that may cause adverse impacts to water quality. "Construction related waste" includes, but is not limited to, discarded building materials, concrete truck washout, chemicals, litter, hazardous materials, oil and sanitary waste at the construction site.

(8) "Covenants for permanent maintenance of water quality best management practices." A legal document executed by the property owner, or a homeowners' association as an owner of record, and recorded with the Blount County Register of Deeds which guarantees perpetual and proper maintenance of BMPs.

(9) "Detailed plans." Plans required by the City of Maryville Land Development and Public Works Standards that present detailed information on the stormwater drainage structures and control measures that will be constructed for a proposed development or redevelopment.

(10) "Developer." The person, firm or corporation, either public or private, engaged in the development of land, as defined below.

(11) "Development." A "development" includes any of the following activities:

(a) The improvement of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:

(i) One (1) or more residential or non-residential buildings, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure; or

(ii) The division or allocation of land or space, between or among two (2) or more existing or prospective occupants by means of, or for the purposes of, streets, common areas, leaseholds, condominiums, building groups or other features.

(b) A subdivision of land.

(12) "Development standards board of appeals." The body that has been delegated the authority by the Council of the City of Maryville to hear appeals concerning decisions made by the city manager, or his designee, regarding the interpretation of the meaning of this code.

(13) "Easement." A legally-dedicated right-of-way on property for the purposes of allowing the city to manage and maintain infrastructure, site access or stormwater flow within specified boundaries.

(14) "Grading permit." A permit issued to authorize excavation and/or fill to be performed under the guidelines of this chapter.

(15) "Hotspot." An area where the land use or activities generate, or have the potential to generate, highly contaminated runoff, with concentrations in excess of those typically found in stormwater.

(16) "Impervious surfaces." Areas that prevent or impede the infiltration of stormwater into the soil as it infiltrated in natural conditions prior to development. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings.

(17) "Lake." See "pond."

(18) "Land-disturbing activity." Any activity on private or public land that may result in soil erosion and the movement of sediments. "Land-disturbing activities" include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, logging and/or tree chipping operations, haul roads associated with the development, and excavation.

(19) "Native vegetation." Plants indigenous to east Tennessee.

(20) "NPDES." National Pollutant Discharge Elimination System.

(21) "Operator." In the context of construction activity stormwater, "operator" means any person associated with a construction project that meets either of the following two (2) criteria:

(a) This person has operational control over construction plans and specifications, including the ability to authorize modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project; or

(b) This person has day-to-day operational control of those activities at a project site which are necessary to ensure compliance with a site plan, EPSC plan, WQMP, or sketch plan for the site or other permit conditions. This person is typically a contractor or commercial builder and is often authorized to direct workers at a site to carry out activities required by approved plans or comply with other permit conditions.

(22) "Owner or property owner." The legal owner of the property as recorded in the Blount County Register of Deeds office at the time of application of the grading permit.

(23) "Person." Any individual, firm, corporation, partnership, association, organization or entity, including governmental entities, or any combination thereof.

(24) "Policy manual." The *Policy Manual for Stormwater Quality Management* prepared and maintained by the City of Maryville that contains

policies, technical criteria, tools and guidelines and other supporting documentation for implementation of the provisions of this chapter.

(25) "Pond." For the specific purpose of water quality buffers, a "pond" or a "lake" is an inland body of standing water.

(26) "Project." The entire proposed development regardless of the size of the area of land to be disturbed.

(27) "Redevelopment." The improvement of a lot or lots that have been previously developed.

(28) "River." See "stream."

(29) "Sediment." Solid material, both inorganic (mineral) and organic, that is in suspension, is being transported, or has been moved from the site of origin by wind, water, gravity, or ice as a result of erosion.

(30) "Sedimentation." The action or process of forming or depositing sediment.

(31) "Slope." The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

(32) "Stormwater." Also "stormwater runoff" or "runoff." Surface water resulting from rain, snow, or other form of precipitation, which is not absorbed into the soil and results in surface water flow and drainage.

(33) "Stream." For the specific purpose of water quality buffers, a "stream" is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and:

(a) Has published floodplain elevations that have been computed as part of an approved flood study;

(b) Are identified as a blue line on a seven and one-half (7-1/2) minute USGS quadrangle, unless otherwise designated by the Tennessee Department of Environmental Conservation (TDEC); or

(c) Are determined to be streams by the City of Maryville, the United States Army Corps of Engineers (USACE) or the Tennessee Department of Environmental Conservation (TDEC).

(34) "Structure." Anything constructed or erected such that the use of it requires a more or less permanent location on or in the ground. "Structures" include, but are not limited to, buildings, towers, smokestacks, overhead transmission lines, carports and walls.

(35) "Top of bank." The uppermost limit of an active stream channel, usually marked by a break in slope.

(36) "Total Maximum Daily Load (TMDL)." A calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the source(s) of the pollutant.

(37) "Variance." A grant of relief from the requirements of this chapter that permits construction or activities in a manner otherwise prohibited by this chapter, where specified enforcement would result in unnecessary hardship.

(38) "Water quality buffer." A use-restricted, vegetated area that borders waters of the state located within the City of Maryville, containing natural, enhanced or restored vegetation and grasses, and exists, or is established, to protect those waterbodies. The "water quality buffer" shall be located and platted per the requirements of this chapter.

(39) "Water Quality Management Plan (WQMP)." An engineering plan for the location and/or design of BMPs within a proposed development or redevelopment. A WQMP includes a map showing the extent of the land development activity and location of BMPs, design calculations for BMPs, and, when applicable, includes as-built plans and covenants for permanent maintenance of best management practices.

(40) "Water quality volume reduction." A decrease in the water quality volume for one (1) or more areas of a proposed development that may be obtained for qualified site development features or approaches that can reduce or eliminate the discharge of pollutants in stormwater runoff. "Water quality volume reductions" can only be obtained when technical criteria, as defined by the City of Maryville, are met.

(41) "Water quality volume reduction areas." Areas within the proposed development or redevelopment for which a water quality volume reduction can be obtained.

(42) "Watercourse." Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and that has a defined channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or flood water.

(43) "Waters of the state." Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to, and retained within, the limits of private property in single ownership which do not combine or affect a junction with natural surface or underground waters.

(44) "Wetland." An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the United States Army Corps of Engineers, and/or the Tennessee Department of Environment and Conservation, and/or the Natural Resources Conservation Service, or a qualified professional that has been trained in the identification and delineation of wetland areas. (1999 Code, § 19-703)

19-504. <u>Authority</u>. (1) The city manager and the staff under the city manager's supervision shall administer the provisions of this chapter.

(2) The city manager, or his/her designee, has the authority to promulgate rules, regulations, policies and guidance consistent with this chapter in order to carry out the meaning and intent through a *City of Maryville Policy Manual for Stormwater Quality Management* (or policy manual). The policies, criteria and requirements stated in the policy manual shall be enforceable, consistent with other provisions of this chapter.

(3) In the event that the city manager, or his/her designee, determines that a violation of any provision of this chapter has occurred, or that work does not have a required permit, or that work does not comply with an approved plan or permit, the city manager, or his/her designee, may issue a notice of violation to the permittee or property owner, and/or any other person or entity having responsibility for activities performed at a development, at which time the penalty provisions of this chapter shall be implemented. (1999 Code, § 19-704)

19-505. Requirement for submittal of a Water Quality Management Plan (WQMP). (1) No individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, county, city, or other political subdivision, cooperative, or any other legal entity shall engage in any land-disturbing activity within the corporate limits of the City of Maryville without meeting the requirements of this chapter, unless exempted from obtaining a grading permit under chapter 7 of this title of the City of Maryville Municipal Code.

(2) Any non-residential development or redevelopment of any size or any residential development or redevelopment that will result in a land-disturbing activity that is equal to, or greater than, one (1) acre that must obtain a grading permit, unless exempted from obtaining a grading permit under chapter 7 of this title of the City of Maryville Municipal Code, shall submit a WQMP for approval by the director of engineering and public works, or his/her designee.

(3) The WQMP shall be submitted as part of the erosion prevention and sediment control plan, or detailed plans, in accordance with, and as required by, the Maryville Land Development and Public Works Standards.

(4) No grading or building permit shall be issued until a WQMP has been approved by the director of engineering and public works, or his/her designee.

(5) Developments or redevelopments of any size that received approval of detail plans prior to the effective date of this chapter, or developments or redevelopments for which a WQMP was not required prior to the effective date of this chapter, shall be exempted from the requirements of this chapter. (1999 Code, § 19-705)

19-506. General requirements. (1) The WQMP shall include all of the required elements that are listed and/or described in the policy manual. The

director of engineering and public works, or his/her designee, may require submittal of additional information in the WQMP as necessary to allow an adequate review of the existing or proposed site conditions. Omission of any required items shall render the plans incomplete and they will be returned to the applicant prior to review by the director of engineering and public works, or his/her designee.

(2) The WQMP shall be subject to any additional requirements set forth in the minimum subdivision regulations, zoning ordinance, the Land Development and Public Works Standards or other City of Maryville regulations.

(3) The WQMP shall be prepared and stamped by a professional engineer, landscape architect, or architect competent in civil and site design and licensed to practice in the State of Tennessee. Portions of the WQMP that require hydraulic and/or hydrologic calculations and design shall be prepared and stamped by a professional engineer competent in civil and site design and licensed to practice in the State of Tennessee.

(4) The approved WQMP shall be followed during grading and construction activities. Under no circumstance is the owner or operator of land development activities, or any person(s) acting on the owner's behalf, allowed to deviate from the approved WQMP without prior written approval of a plan amendment by the director of engineering and public works, or his/her designee.

(5) The approved WQMP shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the director of engineering and public works, or his/her designee, during the course of grading or construction that the approved plan is inadequate.

(6) The WQMP shall include a listing of any legally-protected state or federally-listed threatened or endangered species and/or critical habitat located in the area of development or redevelopment (if any), and a description of the measures that will be used to protect them during and after grading and construction. United States Fish and Wildlife approval is required for all protection measures.

(7) Other state and/or federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved through the appropriate lead regulatory agency prior to submittal of a WQMP to the City of Maryville.

(8) BMPs, water quality buffers and water quality volume reduction areas shown in WQMPs shall be maintained through the declaration of a protective covenant, entitled "Covenants for Permanent Maintenance of Water Quality Best Management Practices" (covenant). The covenant must be approved by, and shall be enforceable by, the City of Maryville. The covenant shall be recorded with the deed and shall run with the land and continue in perpetuity.

(9) BMPs, water quality buffers and water quality volume reduction areas shall be placed into a permanent easement that is recorded with the deed

to the parcel and held by the City of Maryville. A maintenance right-of-way or easement, having a minimum width of twenty feet (20') from a driveway, public road or private road shall also be provided.

(10) The owner or operator of any land development activities may be subject to additional watershed or site specific requirements other than those stated in this chapter in order to satisfy local, state or federal requirements, or where the director of engineering and public works, or his/her designee, has determined through stormwater master plans, engineering studies, a history of existing or documented water quality problems, or engineering judgment that additional restrictions are needed to limit adverse impacts of the proposed development on water quality or channel protection. Areas subject to additional requirements may also include developments, redevelopments or land uses that are considered pollutant hotspots.

(11) The director of engineering and public works, or his/her designee, may waive or modify the requirements of the chapter if adequate water quality treatment and channel protection are suitably provided by a downstream or shared off-site BMP, or if engineering studies determine that installing the required BMP(s) would actually cause adverse impact to water quality or cause increase channel erosion or downstream flooding. (1999 Code, § 19-706)

19-507. Water quality treatment requirements. All new developments or redevelopments that submit a WQMP shall provide treatment of stormwater runoff in accordance with the following requirements:

(1) Stormwater runoff generated from the development or redevelopment must be treated for water quality prior to discharging from the property, in accordance with the stormwater pollutant removal treatment standard and criteria provided in the policy manual.

(2) The treatment of stormwater runoff shall be achieved through the use of one (1) or more BMPs that are designed and constructed in accordance with the design criteria, guidance and specifications provided in the policy manual.

(3) Methods, designs or technologies for BMPs that are not specified in the policy manual may be submitted for approval by the director of engineering and public works, or his/her designee, if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth in the policy manual and this chapter. Proof of such methods, designs, or technologies must meet the minimum testing criteria set forth in the policy manual.

(4) BMPs shall not be installed within the public right-of-way without prior approval of the director of engineering and public works, or his/her designee. (1999 Code, § 19-707)

19-508. Channel protection requirements. (1) All new developments or redevelopments that are required to submit a WQMP shall provide

downstream channel erosion protection by capturing the channel protection volume (the runoff volume from the one (1) year frequency, twenty-four (24) hour storm) and discharging such volume over no less than a twenty-four (24) hour period using the design methods provided in the policy manual.

(2) Downstream channel erosion protection can be provided by an alternative approach in lieu of controlling the channel protection volume subject to prior approval by the director of engineering and public works, or his/her designee. Sufficient hydrologic and hydraulic analysis showing that the alternative approach will offer adequate channel protection from erosion must be presented in the WQMP. (1999 Code, § 19-708)

19-509. Requirement for submittal of a Special Pollutant Abatement Permit (SPAP). Technical requirements for the permit shall be based on the current policy manual subject to the approval of the director of engineering and public works, or his/her designee.

(1) Specific land uses are known to produce pollutants that are detrimental to water quality and would not be corrected by standard water quality treatment methods. A special pollution abatement permit is required to ensure that structural and management BMPs are used to control water quality for these uses and that the BMPs employed are designed to reduce the special pollutant to an acceptable level. Before the approval of structural stormwater treatment devices, the engineering and public works director, or his/her designee, may require valid documentation from full-scale testing by an independent third party to verify that the pollutants of concern will be properly controlled. A special pollution abatement permit will be valid for a period of five (5) years, at which point it must be renewed. At the time of renewal, any deficiency in the management method must be corrected. Any development that occurs without a required permit shall be a violation of this chapter of the code.

(2) A special pollution abatement permit shall be required for the following land uses:

(a) Vehicle, truck or equipment maintenance, fueling, washing or storage areas including, but not limited to, automotive dealerships, automotive repair shops, and car wash facilities;

(b) Any property containing more than four hundred (400) parking spaces, or one hundred twenty thousand (120,000) square feet of impervious parking area;

(c) Recycling and/or salvage yard facilities;

(d) Restaurants, grocery stores, and other food service facilities;

(e) Commercial facilities with outside animal housing areas including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos; and

(f) Other producers of pollutants identified by the director of engineering and public works, or his/her designee, by information provided to, or collected by, him or his representatives, or reasonably

deduced or estimated by him or his representatives from engineering or scientific study. (1999 Code, § 19-709)

19-510. General requirements for water quality buffers. (1) All new developments or redevelopments that are required to submit a WQMP and/or record a plat shall establish, protect and maintain water quality buffers along all streams, rivers, lakes, ponds and wetlands located in the City of Maryville as set forth in this chapter and in the policy manual. Buffers shall be established, protected, and maintained for portions of waterbodies that are located in the City of Maryville. Any property, or portion thereof, that lies within the water quality buffer is subject to the requirements for the water quality buffer stated in this chapter, as well as any and all zoning restrictions that apply to the parcel as a whole.

(2) The water quality buffer shall be established, managed and maintained to protect the physical and ecological integrity of the buffered waterbody, to reduce the potential for flooding, provide tree canopy, stabilize streambanks and to filter runoff from developed areas. Management of the water quality buffer includes specific limitations on alteration of the natural conditions as set forth in this chapter and the policy manual.

(3) Except as otherwise provided in this chapter, the water quality buffer must be maintained in a use-restricted, undisturbed state in accordance with this chapter. The water quality buffer must meet, or have the ability to meet through vegetation improvement and growth, the minimum vegetative targets defined for the buffer in this chapter.

(4) Public or private property that is being developed or redeveloped for purposes of the City of Maryville greenway or linear park system is exempt from all water quality buffer requirements. (1999 Code, § 19-710)

19-511. Minimum width and vegetation standards for buffers on streams and rivers. (1) A water quality buffer having a minimum width of sixty feet (60') shall be provided along each side of a stream or river, as measured perpendicular from the top-of-bank of the active channel. For those streams that do not have a defined top-of-bank, the buffer shall be measured perpendicular from the centerline of the stream.

(2) The water quality buffer shall consist of two (2) zones, as follows:

(a) Inner zone. The inner zone of the water quality buffer shall have a minimum width of thirty feet (30'), measured perpendicular from the top-of-bank of the active channel and extending landward. Property owners are permitted and encouraged to establish an inner zone that has a width greater than thirty feet (30').

(b) Outer zone. The outer zone of the water quality buffer shall be measured from the edge of the inner zone and shall extend the perpendicular distance required to obtain a total minimum buffer width of sixty feet (60') when combined with the width in the inner zone.

(3) The minimum vegetative target for the inner zone is mature, moderately dense forest (i.e., trees) with woody shrubs and understory vegetation. Where forest vegetation has the potential to impact traffic safety or limit access, areas immediately surrounding approved stream crossings and utility access areas may be vegetated with dense grasses.

(4) The minimum vegetative target for the outer zone is mowed, dense grass that covers the entire zone.

(5) A variance for the width of the water quality buffer may be granted for water quality buffers located on streams and rivers through allowance of buffer width averaging; provided, that the following conditions are met:

(a) The average width of the entire buffer within the boundaries of the property to be developed shall not be less than sixty feet (60');

(b) The width of the buffer shall not be less than thirty feet (30') at any location, except where infrastructure encroachments and/or stream crossings have been approved by the director of engineering and public works, or his/her designee;

(c) Areas of the water quality buffer having a minimum width of thirty feet (30') (or less at infrastructure encroachments and stream crossings) can comprise no more than fifty percent (50%) of the buffer length; and

(d) Buffer width averaging is performed in accordance with policies stated in this chapter and the policy manual.

(6) Buffer width averaging is required for water quality buffers that have stream crossings and infrastructure encroachments.

(7) Buffer width averaging is prohibited for any portion of the development that has, or will have, after development the land uses described below:

(a) Areas that have slopes greater than fifteen percent (15%) that are located within fifty feet (50') of the stream to be buffered;

(b) Developments or facilities that include on-site sewage disposal and treatment system drainfields (i.e., septic systems), raised septic systems, subsurface discharges from a wastewater treatment plant, or land application of biosolids or animal waste;

(c) Landfills (demolition landfills, permitted landfills, close-in-place landfills);

(d) Junkyards;

(e) Commercial or industrial facilities that store and/or service motor vehicles;

(f) Commercial greenhouses or landscape supply facilities;

(g) Developments or facilities that have commercial or public pools;

(h) Agricultural facilities, farms, feedlots, and confined animal feed operations;

(i) Animal care facilities, kennels, and commercial/business developments or facilities that provide short-term or long-term care of animals; and

(j) Other land uses deemed by the director of engineering and public works, or his/her designee, to have the potential to generate higher than normal pollutant loadings. (1999 Code, § 19-711)

19-512. Minimum width and vegetation standards for buffers on ponds and lakes. (1) A water quality buffer having a minimum width of thirty feet (30') shall be provided around the perimeter of ponds and lakes that discharge water to, or receive discharges of water from, streams or rivers. The buffers shall be measured perpendicular from the topographic contour that defines the normal pool elevation.

(2) Water quality buffers are not required around the perimeter of ponds that are hydraulically disconnected from a stream or river, or around ponds that are newly designed and constructed for the purposes of meeting water quality treatment or channel protection requirements.

(3) The minimum vegetative target for water quality buffers on ponds and lakes is mowed, dense grass that covers the entire buffer area. (1999 Code, § 19-712)

19-513. Minimum width and vegetation standards for buffers on wetlands. (1) A water quality buffer having a minimum width of thirty feet (30') shall be provided around the perimeter of a wetland, as measured from the outermost edge of the wetland.

(2) Water quality buffers are not required for wetlands designed and constructed for the purposes of water quality treatment or channel protection.

(3) The minimum vegetative target for water quality buffers on wetlands is undisturbed, mature, moderately dense forest (i.e., trees) with woody shrubs and understory vegetation. (1999 Code, § 19-713)

19-514. Additional vegetation requirements for water quality buffers. (1) Except as otherwise provided in this chapter, the water quality buffer must be maintained in a vegetated state in accordance with the minimum vegetated targets defined for the buffer and the requirements of this section.

(2) Existing water quality buffer may be restored or improved in accordance with the requirements of this chapter without prior approval of a buffer enhancement plan by the director of engineering and public works, or his/her designee.

(3) Property owners of existing water quality buffers that have been disturbed or do not meet, or do not have the potential to meet through natural vegetative succession, the vegetative targets for buffer areas that are defined in this chapter shall be required to restore or improve the buffer area in accordance with this chapter.

(4) Vegetative improvement of water quality buffer areas shall be required for buffer areas that do not conform to the minimum vegetative target at the time of development or redevelopment. Inner zone areas that can be characterized as an early successional forest, consisting of a combination of grasses, vines, shrubs, tree saplings and possibly even a few mature trees, may not require vegetative improvement, provided that the vegetation appears healthy, provides adequate ground coverage, and consists largely of native and non-invasive species.

(5) Property owners of water quality buffer areas that require vegetative improvement shall submit a buffer enhancement plan prior to establishment of the buffer. The buffer enhancement plan shall be submitted to the director of engineering and public works, or his/her designee, for approval prior to establishment of the buffer with the WQMP and may be submitted as part of a larger landscaping plan.

(6) Buffer enhancement plans shall be prepared in accordance with the requirements set forth in the policy manual.

(7) Establishment of a water quality buffer must adhere to the following conditions:

(a) All areas/zones of the buffer being established must be planted, at a minimum, with vegetation that is appropriate to achieve the vegetative targets stated in this chapter.

(b) All areas/zones of the buffer being established must be stabilized against erosion.

(c) If the outer zone of a stream buffer and the buffer around a pond or a lake will consist largely of grasses after enhancement, seeding must be performed at a rate/density sufficient to provide healthy, dense, permanent vegetative cover for one hundred percent (100%) of the buffer area within one (1) growing season. Mulch, pebbles, wood chips and other non-vegetative ground cover is not acceptable for buffer enhancement.

(d) No trees shall be planted in a utility easement.

(e) No species may comprise more than one-third (1/3) of the total planted trees or shrubs.

(f) Seedlings/trees must be guaranteed at a seventy-five percent (75%) survivorship.

(g) Non-native species must be removed from the water quality buffer area. For water quality buffers on streams, where the removal of such vegetation would cause a reduction in the amount of stream canopy by fifty percent (50%) or more, revegetation with native plants is required to provide the cover of the previous canopy at a minimum. For areas where such vegetation removal would cause a reduction in the amount of streambank vegetation, revegetation with native plants is required to return the amount of vegetative cover to its previous state, at a minimum. To reduce the potential for streambank erosion, revegetation measures along streambanks must include sufficient erosion control

measures, such as turf reinforcement mats, erosion control blankets, and straw wattles, etc., to stabilize the area in the short- and long-term.

(h) To increase the chances for the success and health of the buffer area, the plant species, density, placement, and diversity proposed in buffer enhancement plans must be appropriate for stream, wetland, and pond/lake buffers to achieve the vegetative target that is defined for the buffer through natural succession, given the local site conditions and use of the upland property. Proposed planting and long-term maintenance practices must also be appropriate and performed properly.

(i) Vegetation mortality must be accounted for all planting densities that are proposed in buffer enhancement plans.

(8) One (1) year after completion of the restoration or enhancement activity, the portion of the performance bond related to the buffer enhancement plan can be released; provided, that the buffer area has been restored or enhanced as required, that soils within the buffer area are stable and not eroding, and that buffer vegetation is healthy and growing as expected. (1999 Code, § 19-714)

19-515. Requirements for steep slopes in water quality buffer areas. Where steep slopes of fifteen percent (15%) or greater are located within fifty feet (50') of the water body, one (1) of the following conditions shall apply:

(1) The water quality buffer width in the steep slope area shall be adjusted to include an additional twenty feet (20'), giving a total buffer width of eighty feet (80'). At a minimum, the additional twenty feet (20') shall meet the vegetation target of mowed, dense grass that covers the entire additional area.

(2) The water quality buffer in the steep slope area shall have a minimum width of sixty feet (60') and follow the inner zone criteria. (1999 Code, § 19-715)

19-516. Activities within the water quality buffer. (1) The following activities or land uses are prohibited within the water quality buffer:

(a) The storage and use of pesticides, herbicides, and fertilizers, except as provided in this chapter;

(b) All types of impervious surfaces, structures, buildings, storage facilities and other accessories;

(c) Vehicle storage and maintenance;

(d) Waste storage areas, dumpsters, grease bins;

(e) Septic tanks and septic drain fields;

(f) Hazardous sanitary waste landfills;

(g) Receiving areas for toxic or hazardous waste or other containments;

(h) Mining;

(i) Animal lots or kennels; and

(j) Other activities or uses that are known to contribute pollutants to waterways.

(2) Facilities used for stormwater quantity or quality management, and/or for channel erosion protection may be located within the water quality buffer area; provided, such facilities are approved by the director of engineering and public works, or his/her designee.

(3) The following activities are allowed within the inner zone of water quality buffers on streams and within water quality buffers on wetlands:

(a) Maintenance activities to remove trees or other vegetation if they are in danger of falling, causing damage to dwellings or other structures, causing blockage of the stream, standing in the path of an approved water, sanitary sewer, or storm main. The roots of a tree that are penetrating, or in danger of penetrating, a sewer, water or storm drainage line at a joint or pipe connection may be removed, however the root wad or stump should be left in place, where feasible, to maintain soil stability.

(b) Maintenance activities to prune native vegetation; provided, that the health and function of the vegetation is not compromised.

(c) Maintenance activities to remove non-native vegetation (i.e., honeysuckle, kudzu, privet) and re-vegetated with native species; provided, that such activities cause minimal soil disturbance is permitted and the requirements of § 19-514(7) are met.

(d) Disturbances as required to establish and/or restore buffer areas in accordance with an approved buffer enhancement plan.

(e) Stormwater management facilities that do not detract from the buffer meeting the minimum vegetative target for the buffer area and will allow the buffer area to meet its intended purposes as stated in § 18-1010.

(f) Infrastructure such as roads, bridges, storm drainage, and utilities; provided, that they adhere to the following standards:

(i) The width shall be kept to the minimum width needed to allow for maintenance access and installation;

(ii) The crossing shall be at an angle that minimizes clearing requirements;

(iii) The minimum number of crossings should be used within each development, with no more than one (1) crossing every one thousand (1,000) linear feet. The director of engineering and public works, or his/her designee, may approve additional crossings if justified by traffic, safety, or access issues.

(iv) Access areas for utilities that are located in the water quality buffer shall be allowed. Access areas must be minimized to the extent possible and shall be located no less than four hundred feet (400') apart unless warranted by valid safety, access, or service issues.

(g) Pathways, trails and picnic areas, provided that no impervious surfaces are used and the design and location of such areas are approved by the City of Maryville.

(h) Removal of forest vegetation that has the potential to impact traffic safety or limit access to areas immediately surrounding the approved stream or utility crossing. The area shall be vegetated with a minimum of dense grass.

(i) Bank stabilization, stream restoration or habitat alteration projects and other activities permitted and approved by TDEC or under § 404 of the Federal Clean Water Act, being 42 U.S.C. § 7651c. The buffer area must be re-vegetated in accordance with the requirements of this chapter immediately after the project is complete. Such project must include sufficient erosion control measures, such as turf reinforcement mats, erosion control blankets, straw wattles, etc., to stabilize the area in the short- and long-term.

(j) Education activities and scientific research that do not require any prohibited activities identified in this section.

(4) The following activities are allowed within the outer zone of the water quality buffers on streams and rivers, and within water quality buffers on ponds and lakes.

(a) All activities that are allowed within the inner zone;

(b) Land disturbance and grading; provided, that the buffer area is re-vegetated in accordance with the requirements of this chapter immediately after the project is complete. A buffer enhancement plan must be submitted and approved for land disturbance and grading projects that require a grading permit prior to approval of the grading permit;

(c) Clearing, grubbing, grading and re-vegetation, performed in accordance with an approved grading plan;

(d) Disturbances necessary for the construction of utility access areas and approved stream crossings;

(e) On-going vegetative maintenance activities such as mowing, bush-hogging, and weed-eating; and

(f) The limited application of herbicides and fertilizers for purposes of vegetation removal and management is allowed. Herbicides and fertilizers used must be non-toxic, biodegradable, and safe for humans, animals and the environment. (1999 Code, § 19-716, modified)

19-517. <u>The protection of water quality buffers during construction</u>. (1) Unless otherwise provided in this chapter, all water quality buffer areas shall remain protected from land disturbance, vegetation removal, construction of impervious surfaces, and discharges of sediment and other construction-related wastes during development activities.

(2) Water quality buffers shall be clearly identified on all construction drawings, and marked with the statement "Water quality buffer. Do not disturb."

(3) The entire perimeter of water quality buffer areas must be clearly marked at the site of development or redevelopment prior to the initiation of land disturbing activities. A combination of stakes, flagging, silt fence and/or orange construction fence may be used to ensure adequate visibility of the water quality buffer perimeter. The perimeter markings must be inspected and approved by the director of engineering and public works, or his/her designee, prior to approval of a grading permit.

(4) Water quality buffers cannot be encroached upon or disturbed during project construction, unless they are being established, restored, or enhanced in accordance with an approved buffer enhancement plan.

(5) All areas of the water quality buffer, including streambanks, shall be left in a stabilized condition upon completion of construction activities. No actively eroding, bare or unstable areas shall remain. (1999 Code, § 19-717)

19-518. <u>The protection and maintenance of water quality buffers after construction</u>. (1) Once construction has ceased on a project, water quality buffers must be maintained in accordance with the recorded covenants for maintenance of water quality best management practices. The covenants shall require that maintenance of the water quality buffer be the responsibility of the property owner.

(2) In order to provide for long-term protection and maintenance, the City of Maryville shall require that the water quality buffer be protected in perpetuity by placing the buffer in a permanent water quality or other easement that is recorded with the property's deed.

(3) Permanent boundary markers, in the form of signage approved or provided by the director of engineering and public works, or his/her designee, may be required prior to recording of the final plat, and the issuance of a certificate of occupancy. The director of engineering and public works, or his/her designee, has the authority to require replacement of permanent boundary markers that have been removed or destroyed. (1999 Code, § 19-718)

19-519. <u>Plats prepared for recording</u>. Unless otherwise provided herein, all site development plans and plats prepared for recording shall:

(1) Show the extent of all water quality buffers on the subject property by metes and bounds, and be labeled as "water quality buffer;" and

(2) Provide a note with reference to the water quality buffer stating that there shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the City of Maryville. (1999 Code, § 19-719)

19-520. <u>Conflicts with state requirements for buffer areas</u>. The State of Tennessee may require water quality buffers during construction

activities via provisions contained in the Tennessee Construction General Permit (CGP) or other regulatory permits and processes. The state's requirements may, or may not, align with the City of Maryville's requirements and policies for water quality buffers. It is the responsibility of the site developer to be informed about, and follow the requirements of, any state-level buffer requirements. If the State of Tennessee and Maryville buffer requirements differ, the more stringent requirement shall apply. (1999 Code, § 19-720)

19-521. Performance bond. (1) Prior to plat approval, a performance bond which guarantees satisfactory completion of construction work related to BMPs and/or the establishment of water quality buffers may be required for a period of two (2) years.

(2) Performance bonds shall name the City of Maryville as beneficiary and shall be guaranteed in the form of a surety bond, cashier's check, or letter of credit from an approved financial institution or insurance carrier. The surety bond, cashier's check, or letter of credit shall be provided in a form and in an amount to be determined by the director of engineering and public works, or his/her designee. The actual amount shall be based on submission of plans and estimated construction, installation or potential maintenance and/or remediation expenses.

(3) The director of engineering and public works, or his/her designee, may refuse brokers or financial institutions the right to provide a surety bond, letter of credit, or cashier's check based on past performance, ratings of the financial institution, or other appropriate sources of reference information. (1999 Code, § 19-721)

19-522. NPDES permits. Persons or entities who hold NPDES general, individual and/or multi-sector permits shall provide either a copy of such permit or the permit number assigned to them by the Tennessee Department of Environment and Conservation to the director of engineering and public works, or his/her designee, no later than sixty (60) calendar days after issuance of the permit. (1999 Code, § 19-722)

19-523. As-built drawings. (1) Prior to the release of a bond, as-built drawings shall be provided to the director of engineering and public works, or his/her designee, certifying that all BMPs comply with the design shown on the approved WQMP(s). Features such as the location and elevation of structural BMPs, boundaries of vegetated buffers and water quality volume reduction areas shall be provided to verify approved plans. Other contents of the record drawings must be provided in accordance with guidance provided in the policy manual.

(2) As-built drawings shall include sufficient design information to show that the BMPs required by this chapter will operate as approved. This

shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes required to size BMPs.

(3) The as-built drawings shall be stamped by the appropriate design professional required to stamp the WQMP, as stated in § 19-506 of this chapter, and a registered land surveyor licensed to practice in the State of Tennessee. The engineer shall certify that the as-built conditions will meet all water quality requirements, and the surveyor shall certify the accuracy and completeness of the survey. (1999 Code, § 19-723)

19-524. Right of entry. (1) The director of engineering and public works, or his/her designee, may enter upon any property that discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or the stormwater system; stream; natural drainageway; or other stormwater system during reasonable hours to monitor, remove foreign objects or blockages, and to inspect for compliance with the provisions of this chapter.

(2) Failure of a property owner, person(s) working on behalf of the property owner, or other legal occupant of the property, such as a lessee, to allow such entry by the director of engineering and public works, or his/her designee, onto a property for the purposes set forth in § 19-523 shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties, fines and/or damage assessments in accordance with §§ 19-533 through 19-535 of this chapter. (1999 Code, § 19-724)

19-525. Inspection and maintenance. (1) The owner(s) of BMPs, water quality buffers and/or water quality volume reduction areas, or his/her designee, shall, at regular and appropriate frequencies, inspect and properly operate and maintain all BMPs, water quality buffers and/or water quality volume reduction areas in such manner as to maintain their full and intended function. Inspection and maintenance of privately-owned BMPs, water quality buffers and water quality volume reduction areas shall be performed at the sole cost and expense of the owner(s) of such features.

(2) Inspections and maintenance shall be performed in accordance with the requirements provided in the policy manual. The director of engineering and public works, or his/her designee, has the authority to impose more stringent inspection and maintenance requirements as necessary for purposes of water quality protection and public safety.

(3) Inspection and maintenance activities shall be documented by the property owner, or his/her designee. Such documentation shall be maintained by the property owner for a minimum of three (3) years, and shall be made available for review by the director of engineering and public works, or his/her designee

(4) Prior to release of the performance bond, the property owner shall provide the City of Maryville with an accurate as-built drawing of the property and an executed covenant for all BMPs, water quality buffers and water quality

reduction areas. The property owner shall record these items with the Blount County Register of Deeds. The location of the BMPs, water quality buffers, and water quality volume reduction areas, and the easements associated with each of these features, shall be shown on a plat that is also recorded with the Blount County Register of Deeds.

(5) The removal of sediment and other debris from BMPs shall be performed in accordance with all City of Maryville, state and federal laws. Guidelines for sediment removal and disposal are referenced in the policy manual. The director of engineering and public works, or his/her designee, may stipulate additional guidelines if deemed necessary for public safety.

(6) This chapter does not authorize access to neighboring private property by the owner of BMPs, water quality buffers, or water quality volume reduction areas, or his/her designee. Arrangements for access to neighboring private property by the property owner, or his/her designee, for purposes of compliance with this chapter must be handled solely by the owner, or his/her designee, and the owner(s) of the neighboring property. (1999 Code, § 19-725)

19-526. Corrective actions. The director of engineering and public works may order the property owner, or his/her designee, to perform corrective actions to BMPs, water quality buffer areas or water quality volume reduction areas as necessary to properly maintain the full and intended function of the features for the purposes of water quality treatment, channel erosion protection, or water quality volume reduction, to ensure adherence to local performance standards, and ensure public safety. If the property owner, or his/her designee, fails to perform corrective actions, the city manager, or his/her designee, shall have the authority to order the corrective actions to be performed by the city or others. In such cases where a performance bond exists, the city shall utilize the bond to perform the corrective actions. In cases where a performance bond does not exist, or is not sufficient to perform the corrective actions, the city may perform such actions and the property owner shall reimburse the city for double its direct and related expenses. If the property owner fails to reimburse the city in accordance with this section, the City of Maryville is authorized to file a lien for said costs against the property and to enforce the lien by judicial foreclosure proceedings. (1999 Code, § 19-726)

19-527. Feature integrity. Any alteration, improvement, or disturbance to BMPs, water quality buffers, or water quality volume reduction areas that are shown in certified as-built drawings shall be prohibited without authorization from the director of engineering and public works, or his/her designee. This does not include alterations or repairs that must be made in order to maintain the full and intended function of the BMPs, water quality buffer areas, or water quality volume reduction areas. (1999 Code, § 19-727)

19-528. Conflict and severability. (1) This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions or existing ordinances and regulations. However, where the provisions of this chapter and other regulation conflict or overlap, that provision which is more restrictive or imposes higher standards or requirements shall prevail. It is required that the director of engineering and public works, or his/her designee, be advised of any such regulatory conflicts upon submittal of a WQMP.

(2) Each separate provision of this chapter is deemed independent of all other provisions herein so that if any provision or provisions of this chapter shall be declared invalid, all other provisions thereof shall remain enforceable. (1999 Code, § 19-728)

19-529. Responsibility. This chapter does not imply a warranty or the assumption of responsibility on the part of the City of Maryville for the suitability, fitness or safety of any structure with respect to flooding, water quality or structural integrity. This chapter is a regulatory instrument only, and is not to be interpreted as an undertaking by the City of Maryville to design any structure or facility. (1999 Code, § 19-729)

19-530. Enforcement during construction. (1) The requirements of this chapter shall be enforced by the director of engineering and public works, or his/her designee, who shall inspect all the work, grading or construction involved. Failure to properly install or maintain BMPs, water quality buffer areas, or water quality volume reduction areas as specified on the approved WQMP will result in the following actions:

(a) First offense. Written requirement for corrective action that includes a deadline for compliance. If conditions warrant, a stop work order will be immediately issued. Corrective actions will be in accordance with § 19-526.

(b) Second offense. A notice of violation, a stop work order and suspension of all city inspections until the violation is corrected.

(c) Third offense. A court citation and civil penalty of a minimum of fifty dollars ($50.00) per day per violation and a maximum of five thousand dollars ($5,000.00) per day per violation and possible damage assessment.

(d) Any performance bond posted may be forfeited based on the circumstances if compliance is not achieved after notice of violation within the time specified in the notice. Any grading or building permit granted may also be suspended.

(2) All stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred and the director of engineering and public works, or his/her designee, has approved the corrective action. Such notice shall be in writing and shall be given to the owner of the property, or an agent of the owner, or the person in

charge of the job site; or conspicuously posted at the project location, and shall state the necessary corrective actions with a completion date before other activities can resume. (1999 Code, § 19-730)

19-531. Enforcement after construction. The requirements of this chapter shall be enforced by the director of engineering and public works, or his/her designee, who shall inspect the BMPs, water quality buffers and water quality volume reduction areas at regular and appropriate intervals. Failure to properly maintain BMPs, water quality buffer areas, or water quality volume reduction areas to their full and intended function shall result in a written requirement for corrective action that includes a deadline for compliance. Corrective actions will be in accordance with § 19-526. If conditions warrant, a stop work order will be immediately issued. A court citation and civil penalty of a minimum of fifty dollars ($50.00) per day per violation and a maximum of five thousand dollars ($5,000.00) per day per violation and possible damage assessment may also be levied on the property owner by the City of Maryville. (1999 Code, § 19-731)

19-532. Variances. The director of engineering and public works, or his/her designee, may waive or modify any of the general criteria which are deemed inappropriate or too restrictive for site conditions by granting a variance as set forth herein. Variances may be granted in writing under the following conditions:

(1) At the time of plan submission, an applicant may request variances to become part of the approved WQMP. The applicant must explain the reasons for requesting variances in writing and must submit documentation that the issuance of a variance will not result in a reduction in water quality. Specific variances which are allowed must be documented on the approved WQMP.

(2) During construction, a permit holder may request variances to the approved WQMP. Until such time as the amended plan is approved by the city, the land-disturbing activity and associated construction shall not proceed, except in accordance with the WQMP as originally approved.

Absent universal circumstances, a response to the variance request should be given by the city within ten (10) working days. Without a written approval, no variance shall be considered valid. (1999 Code, § 19-732)

19-533. Unlawful acts. Any person who does the following shall be guilty of a violation. Each day of such violation or failure, or refusal, to comply shall be deemed a separate offense and punishable accordingly: (1) Violates any provision of this chapter;

(2) Violates the provisions of any permit issued pursuant to this chapter;

(3) Fails or refuses to comply with any lawful notice to abate issued by the director of engineering and public works, or his/her designee, which has not

been timely appealed to the development standards board of appeals, within the time specified by such notice; or

(4) Violates any lawful order of the city or the development standards board of appeals within the time allowed by such order. (1999 Code, § 19-733)

19-534. Notice of violation. Whenever the director of engineering and public works, or his/her designee, determines that a violation of any provision of this chapter has occurred, the director of engineering and public works, or his/her designee, may issue a notice of violation to the property owner or operator, utility, facility operator, lessee, tenant, contractor, permittee, the equipment operator and/or any other person or entity doing work on the site of the land-disturbing activity. The notice of violation shall:

(1) Be in writing;

(2) Include a description of the property sufficient for identification of where the violation has occurred:

(3) List the violation;

(4) State the action required; and

(5) Provide a deadline for compliance or to stop work. (1999 Code, § 19-735)

19-535. Judicial proceedings and relief. (1) The city attorney may initiate proceedings seeking legal and/or equitable relief in any court of competent jurisdiction against any person who has, or is making, substantial steps towards:

(a) Violating the provisions of this chapter;

(b) Violating the provisions of any permit issued pursuant to this chapter;

(c) Failing or refusing to comply with any lawful order issued by the engineer, which has not been timely appealed to the development standards board of appeals within the time allowed by this chapter; or

(d) Violating any lawful order of the development standards board of appeals within the time allowed by such order.

(2) The city attorney may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to publicly-owned stormwater facilities by any person. (1999 Code, § 19-736)

19-536. Appeals. Appeal or review of a civil penalty or damage assessment under this section may be made to the City Council of the City of Maryville by any person incurring a damage assessment or civil penalty. Such review shall be requested within thirty (30) days after the damage assessment or civil penalty is served by filing a written notice of appeal with the city manager's office. If a petition for review of such damage assessment or civil penalty is not filed within thirty (30) days after the damage assessment or civil penalty is served in any manner authorized by law, the violator shall be deemed

to have consented to the damage assessment or civil penalty and it shall become final. The alleged violator may appeal a decision of the city council, pursuant to the provisions of state law found in *Tennessee Code Annotated*, title 27, chapter 8. Upon receipt of an appeal, the city council shall hold a public hearing within sixty (60) days or a later date mutually agreed up on by both parties. Ten (10) days' prior, notice of the time, date and location of said hearing shall be published in the *Maryville-Alcoa Daily Times* or its equivalent local paper. Ten (10) days' notice shall be provided to the aggrieved party at the address provide at the time of the appeal. (1999 Code, § 19-737)

19-537. Special fund created. All damages and civil penalties collected under this chapter, following adjustment for the expenses incurred in making such collections, shall be allocated and appropriated for the administration of the city's stormwater program. (1999 Code, § 19-738)

19-538. Violations and penalty. (1) Any person violating the provisions of this chapter shall be guilty of a misdemeanor and punished as provided in the general provisions of the city code. Each day that a continuing violation of this chapter is maintained or permitted to remain shall constitute a separate offense.

(2) Any person violating the provisions of this chapter may be assessed a civil penalty by the city of not less than fifty dollars ($50.00) nor more than five thousand dollars ($5,000.00) per day for each day of the violation. Each violation shall constitute a separate violation. The city may also recover all damages proximately caused to the city by such violation.

(3) In assessing the civil penalty, the city may consider:

(a) The harm done to the public health or the environment;

(b) Whether the civil penalty imposed will be of substantial economic detriment to the illegal activity;

(c) The economic benefit gained by the violator;

(d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the municipality;

(f) The amount of penalty established by ordinance or resolution for specific categories for violations; and

(g) All equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) In addition to the civil penalty in subsection (3) above, the city may recover all damages proximately caused by the violator to the city which may include any reasonable expenses and attorneys fees incurred in investigating, enforcing and/or correcting the violations of this chapter.

(5) The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy in law or equity shall be no defense to any such action.

(6) The remedies set forth in this section shall be cumulative, not exclusive, and is not to be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (1999 Code, § 19-734)

TITLE 20

ELECTRICITY AND GAS[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS CHARGES FOR ELECTRIC SERVICE IN THE CITY OF MARYVILLE

SECTION

20-101. Charges levied. All rates and charges for electricity and electric services provided by the City of Maryville Electric Department shall be established and maintained in the City of Maryville's Customer Service Policies, a copy of which shall be available in the city recorder's office. (1999 Code, § 20-101)

20-102. Fuel Cost Adjustment (FCA). The rate schedules of the Maryville Electric Department shall be adjusted based on changes in the Fuel

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[1]Until 1988, the electrical, water, and wastewater systems for the City of Maryville were under the jurisdiction, control, and management of the Board of Utilities of the City of Maryville as provided by Priv. Acts 1955, ch. 176 which was set out, as amended, in the charter. At that time art. XIII in the city's charter also expressly provided for the utilities board to control and manage those three (3) utilities. However, Priv. Acts 1988, ch. 222, repealed Priv. Acts 1955, ch. 176 and art. XIII of the city's charter and provided that "all rights, title and interest in and to all property and assets and all obligations of the Board of Utilities of the City of Maryville are hereby transferred to the City of Maryville."

For provisions authorizing the fluoridation of the water supply of the city, see Ord. #771 of record in the recorder's office.

For the provisions of a franchise granted October 1, 1957, to Tapoco, Inc., for the construction, maintenance, and operation of a water pipe line within the city, see Ord. #764 of record in the recorder's office.

Cost Adjustment (FCA) charged to the city by TVA for wholesale power each quarter. Such costs shall be assessed in a uniform manner to retail power customers based on power usage so that the City of Maryville Electric Department acts only as a "pass through" organization for recouping such costs of the FCA. The City of Maryville Electric Department shall realize no additional revenue itself as a result of the FCA. Such adjustments to the rate schedule for the FCA may be done as needed by the City of Maryville Electric Department without return to council for further approval of the amended rate structure so long as the requirements of this section are met. (1999 Code, § 20-102)

CHAPTER 2

RULES AND REGULATIONS FOR THE GOVERNING OF THE MARYVILLE ELECTRIC DEPARTMENT

SECTION

20-201. Rules and regulations adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of governing the operations of the City of Maryville's Electric Department within or without the municipality, the *Rules and Regulations for the Governing of the Electric Department* are hereby adopted and incorporated by reference as a part of this code, and is hereafter referred to as the "electric rules and regulations." (1999 Code, § 20-201)

20-202. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the electric rules and regulations has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1999 Code, § 20-202)

20-203. Violations and penalty. Any person, firm, corporation or agent who shall violate a provision of the electric rules and regulations, or fail to comply therewith or with any of the provisions thereof, or violate a detailed statement or plan submitted and approved thereunder, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any of the provisions of these rules and regulations, or any revisions thereof, is committed or continued, and upon conviction of any such violation such person shall be fined not less than five dollars ($5.00) nor more than fifty dollars ($50.00) for each violation. (1999 Code, § 20-203, modified)

CHAPTER 3

GAS

SECTION

20-301. To be furnished under franchise. Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.[1] (1999 Code, § 20-301)

[1]The agreements are of record in the office of the city recorder.

TITLE 21

MISCELLANEOUS

CHAPTER

CHAPTER 1

ALARMS SYSTEM

SECTION

21-101. Title. This chapter shall be known as the "alarm ordinance." (1999 Code, § 21-101)

21-102. Definitions. Unless it is apparent from the context that another meaning is intended, the following words, when used in this chapter, shall have the meanings indicated herein:

(1) "Alarm business" means the business of any individual, partnership, corporation, or other entity engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system, or in causing any alarm system to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed in, or on, any building, structure, or facility.

(2) "Alarm system" means any assembly of equipment, mechanical or electrical, arranged to signal the police and/or fire department that an emergency exists or that the services of either or both of those departments are needed. "Alarm system" shall also mean any alarm device which automatically emits an audible, visual, or other response upon the occurrence of any hazard

or emergency and is intended to alert persons outside the building to the existence of said hazard or emergency.

(3) "Alarm user" means the person, firm, partnership, association, corporation, company, or organization of any kind in control of any building, structure, or facility, or portion thereof, wherein an alarm system is maintained.

(4) "Answering service" refers to a telephone answering service providing among its services the receiving on a continuous basis emergency signals from alarm systems, and thereafter relaying the message to the central dispatch facility.

(5) "Automatic telephone dialing alarm system" means any alarm system which is a device which automatically or electronically transmits by telephone or telephone line connected to the central dispatch facility a recorded message or code signal indicating a need for emergency response; or a system which, upon activation, connects to an answering service whose function it is to transmit to the police and/or the fire department a need for emergency response.

(6) "Central dispatch facility" means the central communications center designated by the city council to receive, route, and otherwise handle all incoming police, fire, or other emergency service communications traffic.

(7) "False alarm" means an alarm signal eliciting a response by the police and/or fire department when a situation requiring a response by the police and/or fire department does not in fact exist; but, this definition does not include an alarm signal caused by unusually violent conditions of nature, nor does it include other extraordinary circumstances not reasonably subject to control by the alarm user. Also, this definition does not include an alarm signal caused by a situation that may have been brought under control prior to the arrival of the responding police and/or fire department, that otherwise would have required a response.

(8) "Permit year" means the portion of the calendar year remaining after the date of issuance of a permit and all subsequent calendar years thereafter that such permit may remain in effect. (1999 Code, § 21-102)

21-103. <u>Automatic telephone dialing alarm system</u>. (1) It shall be unlawful for any person, natural or corporate, to sell, offer for sale, install, maintain, lease, operate, or assist in the operation of an automatic telephone dialing alarm system over any telephone lines exclusively used by the public to directly request emergency service from the fire and/or police department.

(2) The fire inspector, when he has knowledge of the unlawful maintenance of an automatic telephone dialing alarm system installed or operating in violation of this chapter shall, in writing, order the owner, operator, or lessee to disconnect and cease operation of the system within seventy-two (72) hours of receipt of the order.

(3) Any automatic telephone dialing system installed unlawfully, as set forth in § 20-103(1) hereof, prior to the effective date of this chapter shall be

removed within thirty (30) days of the order as contained in § 20-103(2) hereof. (1999 Code, § 21-103)

21-104. Permit issuance and renewal. (1) The fire prevention bureau is hereby authorized to grant an alarm permit to any alarm user located in the city to operate, maintain, install, or modify a police or fire alarm device, and no such device shall be operated unless such permit shall have first been issued.

(2) A permit issued pursuant to this chapter may be revoked at any time by the fire prevention bureau upon the giving of ten (10) days' notice to the permittee, given either verbally in person or written, sent to the address shown on the permit. Violation of this chapter, following conviction thereof, shall constitute grounds for revocation of the permit. The failure of the fire inspector to revoke the permit following the finding of the city court that there has been a violation of this chapter shall not be deemed a waiver of the right to revoke the permit. (1999 Code, § 21-104)

20-105. Application requirements for an alarm permit. Application for an alarm permit shall be made on forms provided by the fire prevention bureau. The application form shall request the following information.

(1) The type of alarm system.

(2) The name, address, and telephone number of the applicant's property to be serviced by the alarm, and the name, address, and telephone number of applicant's residence if different. If the applicant's alarm is serviced by an alarm company, then the applicant shall also include the name, address, and telephone number of that company.

(3) An emergency telephone number of the user, or his representative, to permit prompt notification of alarm calls and to assist police and/or fire personnel in the inspection of the property.

(4) It is the applicant's responsibility to immediately notify the fire prevention bureau in writing of any and all changes in the information on file with the city regarding such permit. (1999 Code, § 21-105)

21-106. Items required for an alarm system to qualify for an alarm permit. (1) All alarm systems shall have a backup power supply that will become effective in the event of power failure or outage in the source of electricity.

(2) All alarm systems will have an automatic reset which silences the annunciator within thirty (30) minutes after activation and which will not sound again as a result of the same event that resulted in the original activation.

(3) Any system installed on or after the effective date of this chapter must comply with the requirements stipulated in this section. Preexisting installations must comply with this section within six (6) months of the effective date of this chapter. (1999 Code, § 21-106)

21-107. False alarms. (1) Whenever an alarm is activated in the city, thereby requiring an emergency response to the location by police and/or fire personnel, a police and/or fire officer on the scene of the activated alarm shall determine whether the emergency response was in fact required as indicated by the alarm system or whether in some way the alarm system malfunctioned and thereby activated a false alarm.

(2) If the police or fire officer at the scene of the activated alarm system determines the alarm to be false and no emergency seems necessary, then said officer shall submit a report of the false alarm to the respective chief. A written notification of emergency response and determination of the response shall be mailed or delivered to the alarm user at the address noted on the permit or location where the alarm was activated. The permit holder, upon receipt of the notification, shall be entitled to a hearing before the respective chief, and the permit holder desiring a hearing shall request said hearing within ten (10) days of date of notification.

(3) The fire prevention bureau shall have the right to inspect any alarm system on the premises to which response has been made and he may cause an inspection of such system to be made at any reasonable time thereafter to determine whether it is being used in conformity with the terms of this chapter.

(4) It shall be a violation of this chapter to intentionally cause a false alarm, and any person who intentionally causes a false alarm shall be subject to the penalty provisions hereof.

(5) There shall be provided to the alarm user a ten (10) day grace period during the initial installation of the alarm system. Ten (10) days after the permit has been issued by the fire prevention bureau § 20-107(1) will not apply. Any emergency response provided by the city thereafter will be under the provisions of § 19-508, unless otherwise noted herein.

(6) It shall be required and provided that any alarm business testing or servicing any alarm system notify the police and/or fire departments and instruct said departments of the location and time of said testing and servicing. This section shall apply to any testing period after the initial installation period has ceased. Section 20-107(1) will not apply to the alarm user if prior notice of said testing has been made to the respective departments as outlined in this section. Any violation of this section herein will be assessed under the provisions outlined in § 19-508 of this chapter. (1999 Code, § 21-107)

21-108. Fee assessment. It is hereby found and determined that more than three (3) false alarms within a permit year are excessive and constitute a public nuisance. The activation of four (4) or more false alarms within a permit year will be handled in the following manner: A service charge shall be automatically levied against the alarm user of twenty-five dollars ($25.00) upon the occurrence of the fourth false alarm, a like amount for the fifth false alarm, and a service charge of fifty dollars ($50.00) for each false alarm in excess of

five (5). All service charges levied shall be paid to the city by the alarm user within thirty (30) days of the date of the written notice of said charges. (1999 Code, § 21-108)

21-109. Disconnection. In the event that an alarm system emitting an audible, visual, or other similar response shall fail to be deactivated within the time limitations specified in § 20-106 hereof, the city shall have the right to take such action as may be necessary in order to disconnect any such alarm. (1999 Code, § 21-109)

21-110. Violations and penalty. Any person who violates any provisions of this chapter shall be guilty of a violation, and upon conviction in city court, shall be subject to a fine of not more than fifty dollars ($50.00). Each occurrence constitutes a separate offense. (1999 Code, § 21-110, modified)

CHAPTER 2

PUBLIC SCHOOLS[1]

SECTION

21-201. Definitions. For the purposes of this section, the following definitions shall apply:

"Resident students" shall be classified as those:

(1) With a custodial parent or legal guardian residing inside the corporate limits of the City of Maryville.

(2) Married to, and residing with, a resident of the City of Maryville.

(3) Verified homeless within the corporate limits of the City of Maryville.

(4) In state custody placed by a state agency in a residence within the corporate limits of the City of Maryville.

All other students shall be classified as "non-resident students." (1999 Code, § 21-201)

20-202. Admittance of non-resident students. Non-resident students may attend as tuition students in Maryville City Schools subject to the following rules and regulations:

(1) That space is available at the time of attendance and that said attendance will not cause that class in that grade in that school to exceed the maximum allowable enrollment set by the school board.

(2) That the custodial parent or legal guardian of said tuition student agrees to provide transportation to and from said school during the term of tuition attendance as tuition students are not eligible for public school transportation provided for, and paid by, city residents.

(3) That tuition is paid at a rate approved by city council by resolution and administered under rules set by the school board.

(4) That after meeting the above listed criteria, tuition students will be allowed to attend City of Maryville schools based on the following priority:

(a) Priority 1: Children of teachers in Maryville City Schools in accordance with state law.

(b) Priority 2: Children of non-residents who own property in the City of Maryville.

(c) Priority 3: Children of non-residents employed by the City of Maryville.

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[1]Charter references: art. II, § 26 and art. XII.

(d) Priority 4: Children of non-residents who have siblings already in Maryville City Schools.

(e) Priority 5: Children of non-residents. (1999 Code, § 21-202)

CHAPTER 3

RECREATION AND PARKS SYSTEM RULES AND REGULATIONS

SECTION

21-301. Title. This chapter shall be know as "recreation and parks system rules and regulations." (1999 Code, § 21-401)

21-302. Sale of food, beverage, etc., in parks. (1) It shall be unlawful for any person, firm, corporation, or any agent, representative or employee thereof, to attempt to sell, offer for sale, or sell any food, beverage or any other item of personal property within the boundaries of any public park or upon any of the streets in said parks in the City of Maryville, Tennessee, except as otherwise herein set forth.

(2) The City of Maryville and the recreation and park commission shall have the right to make such sale or sales within the boundaries of said parks, and to authorize or contract for the making of such sale or sales, this being an exception to the prohibitions of this section. (1999 Code, § 21-402)

21-303. Speed limit for motor vehicles in parks. It shall be unlawful for any person to operate or drive a motor vehicle upon the streets in any public park in the City of Maryville at a rate of speed in excess of fifteen (15) miles per hours. (1999 Code, § 21-403)

21-304. Parking in parks. It shall be unlawful for any person to park any motor vehicle or trailer in any public park in the City of Maryville, Tennessee, except at those locations where parking is specifically designated by painted lines upon the pavement or by signs. (1999 Code, § 21-404)

21-305. Hours of operation for parks. (1) Except as otherwise herein provided, it shall be unlawful for any person, organization or group to use or occupy any public park in the City of Maryville, Tennessee, or any vehicular parking areas in connection therewith for any purpose during the hours between 12:00 midnight and 6:00 A.M.

(2) Permission to use and occupy any of said parks during the hours prohibited in subsection (1) above hereof may be granted on special occasion by application to the Chief of Police of the City of Maryville and the same may be issued in writing by the chief of police with the concurrence and approval of the director of the Maryville-Alcoa-Blount County Recreations and Parks Commission. (1999 Code, § 21-405, as amended by Ord. #22-39, Oct. 2022)

21-306. Boats prohibited. It shall be unlawful to place or use any boat, canoe, raft or other vessel on Pistol Creek or Greenbelt Lake; provided, however, the city manager or the city manager's designee may waive all or part of this section for maintenance activities. (Ord. #2022-39, Oct. 2022)

21-307. Swimming prohibited. It shall be unlawful to wade or swim in Greenbelt Lake and unlawful to swim in Pistol Creek; provided, however, the city manager or the city manager's designee may waive all or part of this section for maintenance activities. (Ord. #2022-39, Oct. 2022)

21-308. Restrictions. Nothing in this chapter is to be construed as restricting any official work or activity in said parks and waterways by any department of the City of Maryville or of the Maryville-Alcoa-Blount County Recreation and Park Commission. (Ord. #2022-39, Oct. 2022)

CHAPTER 4

CUSTOMER SERVICE POLICY[1]

SECTION

21-401. Introduction. The City of Maryville Utilities ("COMU") serves as provider of water and wastewater utilities within the incorporated city limits and certain service areas outside of the incorporated area. In addition, COMU provides electric services as a distributor of power purchased from the Tennessee Valley Authority ("TVA").

The COMU's goal is to provide excellent service to its customers. This chapter describes the customer service policy that is necessary to effectively manage the utilities and their operations as well as follow regulations established by governing authorities. (1999 Code, § 21-501)

21-402. Payment hours. The COMU accepts payments with the following times for each method of payment.

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[1]Appendices A-E (fees, phone numbers, certificate of medical emergency, annual read policy, manual read agreement) are available in the office of the recorder.

(1) In person. Payments may be made during the hours of 8:00 A.M. and 4:30 P.M. at 400 W. Broadway.

(2) Drop box. Payments may be made at any time of day or night. However, payments must be placed in the drop box, located at City Hall, 400 W. Broadway prior to 4:00 P.M. to receive current day processing. After 4:00 P.M. all payments will be processed with the next business day's transactions.

(3) Web payments and IVR (Integrated Voice Response). Payments (credit card and electronic check) may be made twenty-four (24) hours a day, seven (7) days a week. Typically, payments are credited to the customer's account within twenty-four (24) hours, but COMU asks customer(s) to allow forty-eight (48) hours before due date to ensure payment is posted on time. Electronic checks may take up to three (3) days to debit customer's bank account.

In order to restore service due to non-payment after 4:30 P.M., customers must contact the overtime crews to re-establish service. If an overtime crew is called out, the customer will be responsible for any associated charges and additional fees. The electric overtime crew will be dispatched to restore service for both water and electric service. However, if the electric overtime crew experiences problems associated with water service, and a water overtime crew is dispatched, the customer will be charged an additional fee to restore water service. These charges become due and payable immediately. Failure to pay these charges may result in the discontinuation of services. Electric service after-hours can be contacted at (865) 983-8722. Water service after-hour can be contacted at (865) 982-7990.

In order to avoid penalties or late fees, payments must be received by COMU prior to, or on, the due dates that are outlined on the associated bill. Postmarks are not an acceptable measurement of the time payment was received. (1999 Code, § 21-502)

21-403. Information to customers. Information is available for the purpose of conservation, fairness, and communication between COMU and its customers.

(1) The COMU will make available to all customers upon application for service and anytime upon request, information related to:

(a) Current service practice policy; and

(b) Current rates applicable to such customer and a written and/or oral explanation of the rate schedule.

(2) Upon request a customer will receive a statement of such customer's monthly kWh and/or gallon consumption for the prior twelve (12) month period. There is no charge for this service.

(3) Requests for information or questions regarding this policy may be made in person at any office of COMU, by phone, by mail, or on COMU's website at www.maryvillegov.com.

(4) Customers shall be notified of the availability of rate schedules, governing policy such as those established by TVA, and consumption information by the most practical combinations of:

(a) A message printed on COMU's bills;

(b) Public displays in the office where bills are paid;

(c) Public service announcements on local radio stations periodically;

(d) Advertisements in local newspapers periodically; or

(e) On COMU's website.

(5) Customers shall be notified of any proposed significant changes in rates and/or policy at least thirty (30) days prior to implementation of such change by the most practical combinations of:

(a) Mail;

(b) Newspaper advertisement;

(c) Public service announcements;

(d) Displays in the office where bills are paid; or

(e) On COMU's website. (1999 Code, § 21-503)

21-404. Utility outage. To report a utility outage, contact the automated outage report line (865) 983-8722. Water service after-hours can be contacted at (865) 982-7990. (1999 Code, § 21-504)

21-405. Meter tests. COMU will, at its own expense, make periodic tests and inspections of its meters to maintain a high standard of accuracy. COMU will make additional tests or inspections of its electric and water meters at the customer's request as described below.

Electric meter tests have a standard testing fee as referenced in appendix A and the customer must pay this prior to additional meter testing. If the test shows that the meter is accurate within two percent (2%), slow or fast, no adjustment will be made in the customer's bill. If the test shows the meter to be in excess of two percent (2%), slow or fast, an adjustment shall be made in the customer's bill over a period of not over thirty (30) days prior, and the cost of conducting the test will be credited by COMU.

Water meter tests have a standard testing fee as referenced in appendix A and the customer must pay this prior to meter testing. If a meter registers in excess of any standardized accuracy limits as disclosed in the adopted water and sewer rules and regulations, an adjustment will be made by COMU and the cost of conducting the test will be credited by COMU. (1999 Code, § 21-505)

21-406. Limitations of liability. COMU's liability shall not extend beyond the customer's delivery point. The delivery point for residential electric shall be defined as the point at which COMU's facility connects with the customer's facility and further being defined as: At the customer-owned weatherhead for overhead service and at source side of terminal of meter pan

for underground service. For other points of delivery, refer to the electric department's rules and regulations. The delivery point for water and sewer service shall be defined as the point at which the COMU's facility connects with customer-owned service lines.

In accordance with the TVA operating rules, COMU is not liable for lightning, power surges, low voltage, high voltage, loss of power or other temporary abnormal system conditions that are caused by weather, long term equipment failures or other causes not due to direct negligence by COMU or its employees. The customer shall be responsible for purchasing and installing any devices required to protect the customer's equipment from any temporary abnormal system condition that may occur occasionally. (1999 Code, § 21-506)

21-407. Customer charge. A customer charge, as adopted by the applicable rate schedule, will be applied to all classes of service for supplying service. This schedule is available on request and at www.maryvillegov.com/customer-service. (1999 Code, § 21-507)

21-408. Manual read policy. A customer may not want an Advanced Metering Infrastructure (AMI) meter installed at their residence. COMU has provided a manual read policy, appendix D, for customers who choose not to participate in AMI. Customers must complete the agreement, appendix E, and pay the appropriate electric and/or water meter change out fee and a monthly manual read fee as referenced in appendix A. (1999 Code, § 21-508)

21-409. Security lights. If an existing utility pole is not available, a customer will be charged a pole rental fee plus the monthly rate for usage. If an existing utility pole can be utilized, no monthly pole rental charge will be necessary. In order to recover the initial costs of providing the service, a customer is required to pay a minimum of twelve (12) months of service regardless of their continuance as a customer of COMU. Any unutilized portion of the twelve (12) month period will be collected on the final billing. (1999 Code, § 21-509)

21-410. Application for service. Each prospective customer desiring service is required to sign a standard application form before service is supplied. The standard application form requires information pertaining to the receipt of adequate identification, such as a valid driver's license and social security number. Also, a copy of a customer's rental agreement or lease must be provided if the service location is not owner occupied. Service will not be supplied to an applicant who does not:

(1) Sign the required form;

(2) Provide adequate photo identification; and

(3) Provide the required rental documents for properties that are not owner occupied (if applicable). All applications completed prior to 12:00 noon,

will have service connected the same business day. After 12:00 noon, service will be connected the following business day. A current customer that has been disconnected for non-payment, account has been finaled and deposit applied to their delinquent account becomes a new customer requiring applicable re-connection fees, a new deposit, and any past due balance if reapplying for service.

For commercial customers located within the Maryville city limits, requests for name change, ownership change or new service requires contact with the City of Maryville Electrical Inspector at (865) 273-3517 prior to processing application. The inspector must authorize any release for service. Commercial customers with a demand in excess of one thousand (1,000) KWh will be required to sign an additional power contract. (1999 Code, § 21-510, modified)

21-411. Denial of service. Upon application for new service, COMU may deny service due to previously unpaid utility bills under an applicant's current or past utility contracts with the city as long as the bill or bills at issue were not timely disputed by the customer. Such denial of service on this basis will not occur for an existing customer.

COMU shall deny service if it is determined that service would be a potential hazard to the health, safety, and welfare of our customers.

When service is being furnished to an occupant of premises under contract and such contract is not in the occupant's name, COMU reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required.

(2) COMU may require that the service continue for a period not to exceed three (3) days landlord/tenant account during which time the customer would be responsible to COMU for all charges for such service. During such three (3) day period or thereafter, the occupant of the premises to which service has been ordered disconnected by the customer, other than the occupant, may be allowed by COMU to enter into a contract for service in the occupant's own name if the occupant is deemed to comply with COMU's rules and regulations with respect to his or her own application for service. (1999 Code, § 21-511)

21-412. Deposit - residential customers. (1) Deposit policies are to be applied without regard to race, color, creed, gender, age, national origin, or marital status.

(2) Customers who receive a "green check" designation from ONLINE Utility Exchange will not be required to provide a deposit. Customers who receive a "red x" will be required to provide a deposit. The deposit amount required is listed in appendix A and should not exceed the class average of no

more than twice the highest monthly bill. COMU reserves the right to adjust deposits as needed.

(3) An existing customer who wants to transfer service to another location and does not have an excellent payment history with COMU will be required to pay a deposit. An excellent payment history is defined as having no more than one (1) late penalty in the past twelve (12) months.

(4) If the account is terminated before one (1) year of service, deposit held will be applied to any outstanding balance due COMU and any remaining balance refunded to customer.

(5) All residential deposits will be accounted for and credited to the account after twelve (12) months of continuous service. The deposit balance is subject to review by COMU and the customer. (1999 Code, § 21-512)

21-413. Deposit - commercial customers. (1) Deposit policies are to be applied without regard to race, color, creed, gender, age, national origin, or marital status.

(2) A deposit is required of any commercial customer before service will be supplied. The amount required should not exceed twice the highest monthly bill for billing location where billing history exists. For new customers at locations where no billing history exists, the monthly bill will be estimated based on anticipated energy demand and load for customer.

(3) Upon termination of service, any outstanding balance due COMU will be paid in full from the deposit funds and then the balance, if any, shall be paid to the customer.

(4) All commercial deposits will be accounted for and credited to the account after twelve (12) months of continuous service. The deposit balance is subject to review by COMU and the customer.

(5) COMU does not accept surety bonds. An irrevocable letter of credit from a financial institution may be acceptable; however, this should be discussed in advance with customer service. (1999 Code, § 21-513, modified)

21-414. Methods of payment. Acceptable methods of payment during normal business hours are cash, check, money order or cashier's check. Credit cards are also acceptable methods of payment. VISA, MasterCard, and Discover are accepted. (1999 Code, § 21-514, modified)

21-415. Billing. (1) Bills will be rendered monthly and shall be paid at the office of COMU or through the various other methods listed under "payment hours."

(2) Failure to receive a bill will not release the customer from payment obligation.

(3) The due date for payment of the bill will be at least fifteen (15) days for all cycles from the day the bill is mailed to the customer.

(4) Payments made after the due date will be subject to a late payment charge of five percent (5%).

(5) A one (1) time courtesy adjustment of late fee per account may be allowed.

(6) If the COMU is unable to obtain access during regular business hours to read meters or if for any other reason correctly registered consumption cannot be obtained, the COMU reserves the right to render an estimated bill to the customer on the basis of the best available information. (1999 Code, § 21-515)

21-416. Collection and termination procedures. Whenever practical, the following process will be followed to discontinue service. However, this process may be modified as long as the intent of notification remains intact and is deemed to be more efficient in the administration of providing utility services and receiving utility payments:

(1) A monthly bill will be sent to the address provided by the customer. A notice that service is subject to termination for non-payment will be printed on the monthly bill if there is a balance carried forward from the previous month.

(2) A courtesy letter for first time late customers will be mailed twenty (20) days after the due date.

(3) Written notice of termination ("final notice before disconnection of service") including rights and remedies will be mailed to customer at least five (5) days prior to the scheduled date of termination and will include all amounts due. For billing disputes, contact customer service at (865) 273-3456.

(4) If the customer does not make payment of all outstanding charges, notify COMU of a billing dispute, or make other acceptable arrangements by the last date of termination, COMU will proceed on schedule with termination.

(5) Hearings on disputed bills will be held by appointment between the office hours of 8:00 A.M. and 4:30 P.M. by an appointment with the staff member designated by the director of financial services.

(6) A customer requesting a hearing has the right to examine records pertaining to that customer's service.

(7) The hearing will be conducted by the staff member designated by the director of financial services. After hearing the evidence, a written decision will be promptly provided to the customer.

(8) A customer may appeal the decision of the designee of the director of financial services. In such case, the director of financial services will hear the evidence and render a decision in writing and shall promptly provide the customer a copy of such final decision.

(9) The customer has the right to a post termination hearing under the above procedures within two (2) business days following such termination.

(10) Discontinuance of service shall not release the customer from liability for service already received, or from liability for payment that

thereafter becomes due under the minimum bill provisions or other provisions of the customer's contract.

(11) A standard re-connection fee will be required for re-connection after termination for nonpayment during normal business hours. After hours, a service fee will apply and payments will be accepted only in the form of cash or check.

(12) A cutoff fee will be added to all accounts that have made the cutoff list, regardless of whether they are disconnected.

(13) If COMU terminates the customer's service for non-payment due to a returned check, a re-connection fee will apply plus any and all check fees. Full payment of all past due amounts and applicable fees owed to COMU must be received in order to restore service. After the third returned check, COMU will not accept a check from the customer for the next twelve (12) month period.

(14) A returned check/draft fee will be assessed to a customer's account for each returned bank draft. After the third returned draft, the customer will no longer be eligible to participate in the bank draft program.

(15) For a customer with hardship or other extenuating circumstances, special counseling is available. When requested by the customer, COMU may arrange to extend payment a week from the last day to pay before disconnection of service. The customer is allowed to have three (3) extensions within a twelve (12) month period as long as the customer pays by the date stated on the agreement and past due balance and all applicable fees are paid in full. If any agreement is paid with a returned check, no future agreements are allowed for the following twelve (12) month period.

(16) COMU evaluates weather conditions daily at www.weather.com for Maryville, Tennessee, 37801, and in the event that the forecasted temperature is not forecasted to exceed twenty degrees Fahrenheit (20°F) or is forecasted to exceed one hundred degrees Fahrenheit (100°F) for heat, on that day COMU will not disconnect service for non-payment. During such events where service is extended due to weather conditions, the service extension shall not extend past the extreme weather condition or past the customer's next due date, whichever date comes first.

(17) For non-payment of a bill in cases of documented medical hardship, such as oxygen, life support systems or dialysis machines, with a written order, appendix C, from a Tennessee medically licensed physician, COMU will postpone disconnection procedures and install a delimiter device on the customer's meter for no longer than seven (7) days. COMU limits the number of times this provision may be invoked to three (3) times per year per location/customer. This provision does not apply to CPAP machines. (1999 Code, § 21-516)

21-417. <u>Service underpayments or overpayments</u>. If the COMU determines a customer has been incorrectly billed for utility services, then such incorrect billing shall be adjusted for either overbilling or under billing. After a

determination of overbilling or underbilling for services has been made by COMU, an adjustment for overbilling or underbilling shall be for any known or unknown causes which result in incorrect bills for utility services including, but not limited to, incorrect constants, failure of current and potential transformer or meter equipment, failure of any other related equipment, improper billing procedures, and any other causes which result in incorrect billing for services to the customer. The period of adjustment for any overbilling or underbilling shall be based upon the period of time during which said overbilling or underbilling occurred subject only to the applicable period of limitations under state law *Tennessee Code Annotated*, § 28-3-301. (1999 Code, § 21-517)

21-418. Leak adjustment policy. In order to qualify for a leak adjustment, a customer with permanent service must apply for the leak adjustment by certifying that they have experienced a leak and have had it fixed within their internal water distribution system. Only one (1) adjustment will be allowed every twelve (12) months and any adjustment will only affect a maximum of three (3) separate billings. A leak adjustment may be made for temporary service at the discretion of the utility director.

(1) Water bill. If a customer experiences a leak in their internal water distribution system, the water portion of the bill will be adjusted to a level that is equal to the annual average monthly bill, plus fifty percent (50%) of the difference between the actual bill and the average bill. If data is unavailable for the previous twelve (12) month period, the system-wide average residential water bill will be used.

(2) Sewer bill. If a customer experiences a leak in their internal water distribution system, the sewer portion of the bill will be adjusted to the annual average only when the leakage does not enter the sewer collection system.

For commercial or new customers, adjustments must be based on actual usage. If no history is available, six (6) months of usage must be established before an adjustment can be calculated. (1999 Code, § 21-518)

21-419. Theft of service. When theft of service is suspected, COMU personnel will visit the premises and evaluate the situation. If it appears a meter has been tampered with, Maryville Police Department will be notified. If the customer's meter has been tampered with, the service will be disconnected and the account immediately closed. All past due, current due, applicable fees, additional deposits and tampering related costs must be paid or acceptable arrangements made before service will be reconnected. COMU reserves the right to refer all meter tampering and theft of service cases to the attorney general's office for possible prosecution under Tennessee Law. Any theft of service fees adopted by COMU rate schedule will be applied to all accounts, as appropriate. (1999 Code, § 21-519)

21-420. Rates and charges for services. Rates and charges for electric, water and sewer services are located in the applicable rate schedule. A copy of the current rate schedule is available upon request during the business hours of 8:00 A.M. to 4:30 P.M. They are also available at www.maryyillegov.com/customer-service. Such requests may be given in person or by calling (865) 273-3456.

Rates and charges for electric, water and sewer services are established upon adoption by the Maryville City Council. One (1) exception to this policy is the adoption of a monthly fuel rate charge as adjusted by the Tennessee Valley Authority ("TVA"). Such charges shall be automatically adopted and included in the electric rate schedule as no additional proceeds are received by COMU. (1999 Code, § 21-520)

CHAPTER 5

PUBLIC RECORDS POLICY[1]

SECTION

21-501. Procedures regarding access to and inspection of public records. (1) Consistent with the Tennessee Public Records Act ("Act"), being *Tennessee Code Annotated*, §§ 10-7-101, *et seq.*, personnel of the City of Maryville shall provide full access and assistance in a timely and efficient manner to Tennessee residents who request access to public documents by submitting an "inspection/duplication of records request," appendix A. City of Maryville personnel may require presentation of government issued photo identification that shows the requestor's Tennessee address to verify citizenship. A copy of the form of identification used will not be routinely retained by the city unless an issue is presented as to its applicability, validity or authenticity, or for some other valid reason.

(2) Employees of the City of Maryville shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. All inspections of records must be performed under the supervision of the records custodian or designee. The records custodian shall be the city recorder. All copying of public records must be performed by employees of the city, or, in the event that city personnel are unable to copy the records, by an entity or person designated by the records custodian.

(3) To prevent excessive disruptions of the work, essential functions, and duties of employees of the City of Maryville, persons requesting copying of public records shall complete a records request form to be furnished by the city. Requests to view and not copy a public record are not required to be in writing unless otherwise required by law. Persons requesting access to open records shall describe the records with specificity so that the records may be located and made available for public inspection or duplication. All requests for public records shall be directed to the Public Records Request Coordinator ("PRRC"). The PRRC shall be the city community relations manager, or his or her designee. The PRRC may be contacted at 400 West Broadway Ave., Maryville, Tennessee 37801.

(4) When records are requested for inspection or copying, the records custodian has up to seven (7) business days to determine whether the city can retrieve the records requested and whether the requested records contain any

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[1]Appendices A-C (inspection/duplication of records request form, records production letter and records request denial letter) are available in the office of the recorder.

confidential information, and the estimated charge for copying based upon the number of copies and amount of time required, and will be provided a "records production letter," appendix B. Confidential information will be redacted prior to providing for inspection or copying of the requested record.

Within seven (7) business days of a request for records the records custodian shall:

(a) Produce the records requested;

(b) Deny the records in writing, giving explanation for denial, "records request denial letter," appendix C; or

(c) In the case of voluminous requests, provide the requestor, in writing, with an estimated time frame for production and an estimation of duplication costs.

(5) There is no charge assessed to a requester for inspecting a public record. Up to ten (10) pages of black and white standard sized copies of records requested are free of charge to the requestor, with one (1) such set of free copies permitted per person per year. Otherwise, charges for physical copies of records where the copies total more than ten (10) per person per year, in accordance with the office of open records counsel schedule of reasonable charges, are as follows:

(a) Fifteen cents ($0.15) per copy for black and white copies.

(b) Fifty cents ($0.50) per copy for colored copies.

(c) Fifteen cents ($0.15) per copy for accident reports.

(d) Maps, plats, electronic data, audio discs, video discs, and all other materials shall be duplicated at actual costs to the city

Due to security concerns, flash drives may not be used to copy electronic data. Electronic copies are available at a rate of fifteen cents ($0.15) per page. Pictures may be taken of requested documents, but only after redaction of personal or confidential information has been done. Due to the costs of review and redaction of such records, copies taken by photo are also charged at a rate of fifteen cents ($0.15) per page.

Payment is to be made in cash, personal check or accepted credit card presented to the City of Maryville prior to receipt of any copies.

(6) Requests for copies requiring less than one (1) hour of municipal employee labor for research, retrieval and duplication are free to the requester. Labor in excess of one (1) hour may be charged by the city, in addition to the cost per copy, as provided in subsection (5) above. The city may require payment in advance of producing voluminous records. Requests for copies of records may not be broken down to multiple requests for the same information in order to qualify for the first free hour. For a request requiring more than one (1) employee to complete, labor charges will be assessed based on the following formula:

In calculating the charge for labor, a department head shall determine the number of hours each employee spent producing a request. The department head shall then subtract the one (1) hour threshold from the number of hours the highest paid employee(s) spent producing the request. The department head

will then multiply the total number of hours to be charged for the labor of each employee by that employee's hourly wage. Finally, the department head will add together the totals for all the employees involved in the request and that will be the total amount of labor that can be charged.

(7) The police chief shall maintain, in his or her office, records of undercover investigators containing personally identifying information. All other personnel records of the police department shall be maintained in human resources. Requests for police officer personnel records, other than for undercover investigators, shall be made to the PRRC who shall forward such requests to the director of human resources, who shall promptly notify the police chief of such request. The police chief shall make the final determination as to the release of said police officer information requested. In the event that the police chief refuses to release the information, he shall provide a written explanation of the reasons for not releasing the information.

(8) In certain cases, access cannot be provided to original records and copies of such records will be deemed sufficient compliance with the Act. For example, the original records cannot be provided when redaction is required or when records are frail due to age or other conditions, and direct access may cause damage to the originals. In such instances the records custodian should inform the requestor that access will be provided to copies of the records.

(9) If a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy, as such redacted copy shall suffice as access to the document. (1999 Code, § 1-401, modified)

ORDINANCE NO. 2024-20

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF MARYVLLE, TENNESSEE.

WHEREAS some of the ordinances of the City of Maryville are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the City Council of Maryville, 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 "Maryville Municipal Code,";

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARYVILLE, TENNESSEE, as follows:

Section 1. Ordinances codified. The ordinances of the City of Maryville of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 21, both inclusive, are ordained and adopted as the "Maryville 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 or authorizing the establishment of a social security system or providing or changing 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, closing, 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 onor prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars ($50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.[1]

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 City Council of Maryville, Tennessee, 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.

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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.

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.

Adopted this the 3rd day of September, 2024.

Mayor

ATTEST:

City Recorder

APPROVED AS TO FORM:

City Attorney

Passed 1st reading this 6th day of August, 2024 Sherri Mellor, 2024.
City Recorder

Passed 2nd reading this 3rd day of September, 2024 Sherri Mellor, 2024.
City Recorder