Change 2, September 8, 2014

CITY OF NIOTA, TENNESSEE

MAYOR
Lois Preece

VICE MAYOR
Allen Watkins

COMMISSIONERS
Bill Andrews
Leesa Corum
Richard Rutledge

RECORER
Corinne Hockman
PREFACE

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

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

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

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

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

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

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

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

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

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

Steve Lobertini
Codification Specialist
ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

SECTION 8. Be it further enacted, That all ordinances shall begin by an enacting clause as follows: "Be it ordained by the Board of Commissioners of the City of Niota," and that the end contain the provision that "this ordinance shall take effect from and after its passage, the welfare of the city requiring it;" otherwise, the same shall not take effect until twenty days after its passage.
TITLE 1
GENERAL ADMINISTRATION

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

CHAPTER 1
GOVERNING BODY

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

1-101. Time and place of regular meetings. The governing body shall hold regular monthly meetings at 7:00 o'clock P.M. on the second Monday of each month at the city hall. (1978 Code, § 1-101)

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1Charter references
See the charter index, the charter itself, and footnote references to the charter in the front of this code.
Municipal code references
Fire department: title 7.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.

2Charter references
1-102. Order of business. At each meeting of the governing body the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

(1) Call to order by the mayor.
(2) Roll call by the recorder.
(3) Reading of minutes of the previous meeting by the recorder and approval or correction.
(4) Grievances from citizens.
(5) Communications from the mayor.
(6) Reports from committees, members of the governing body and other officers.
(7) Old business.
(8) New business.
(9) Adjournment. (1978 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the governing body at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1978 Code, § 1-103, modified)
CHAPTER 2

MAYOR¹

SECTION
1-201. Generally supervises city's affairs.

1-201. **Generally supervises city's affairs.** The mayor shall have general supervision of all city affairs but not interfere with the performance of the employees duties and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1978 Code, § 1-201)

1-202. **Executes city's contracts.** The mayor shall execute all contracts authorized by the governing body. The mayor will not counterman decisions passed by the board of commissioners. (1978 Code, § 1-202)

¹Charter references
Authority to call special meetings: § 5.
CHAPTER 3

RE记ER1

SECTION
1-301. To be bonded.
1-302. To keep minutes, etc.
1-303. To perform general administrative duties, etc.

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the governing body. (1978 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the governing body and shall preserve the original copy of all ordinances in a separate ordinance book. (1978 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the governing body and for the city which are not assigned by the charter, this code, or the governing body to another corporate officer. The recorder shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the municipality shall provide. (1978 Code, § 1-303)

1Charter references
Appointed: § 30.
Term of office: §§ 2, 13, and 30.
CHAPTER 4

CODE OF ETHICS

SECTION

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

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

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

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

- Conflict of interests disclosure statements: T.C.A. § 8-50-501 and the following sections.
- Consulting fee prohibition for elected municipal officials: T.C.A. §§ 2-10-122, 124.
- Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office): T.C.A. § 39-16-101 and the following sections.
- Crimes of official misconduct, official oppression, misuse of official information: T.C.A. § 39-16-401 and the following sections.
- Ouster law: T.C.A. § 8-47-101 and the following sections.
(a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
(b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #1-401, May 2007)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #1-401, May 2007)

1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #1-401, May 2007)

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

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

1Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.
(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #1-401, May 2007)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #1-401, May 2007)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #1-401, May 2007)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #1-401, May 2007)

1-409. **Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #1-401, May 2007)

1-410. **Ethics complaints.** (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires
information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #1-401, May 2007)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #1-401, May 2007)
TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]
MUNICIPAL COURT

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

CHAPTER 1

MUNICIPAL JUDGE

SECTION
3-101. Municipal judge.

3-101. Municipal judge. The board of commissioners shall appoint a municipal judge who shall have jurisdiction in and over all cases arising under the laws and ordinances of the city. The municipal judge shall be vested with the judicial powers and functions of the recorder of the municipality and shall be subject to the provisions of law and the city's charter governing the judicial duties of the recorder.

(1) The municipal judge shall be a person over eighteen years of age and shall be a person licensed to practice law in the State of Tennessee.

(2) The municipal judge shall serve at the pleasure of the governing body, and shall be for a term of two years to be coterminous with the election of the board of commissioners. Any vacancy occurring in the office of municipal judge shall be filled for the unexpired term by the board of commissioners.

(3) The municipal judge shall take and subscribe to the oath now required for public officials and shall execute and file a corporate surety bond in the amount of $5,000.00 before entering upon the discharge of his duties. The premium for said bond shall be paid by the municipality at regular rates therefore.

(4) The salary for the municipality judge shall be fixed by the board of commissioners before his appointment and shall not be altered during his term of service.

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1Charter references
   Appointed: § 31.
   Compensation: § 31.
   Powers: § 31.
   Term of office: § 31.
(5) When the municipal judge is absent, unavailable or disabled from presiding over the municipal court, the city attorney shall hold court in his place and stead, and shall have the same authority as the regular municipal judge to hold court for the occasion. (Ord. #___, Aug. 1987)
CHAPTER 2
COURT ADMINISTRATION

SECTION
3-201. Maintenance of docket.
3-202. Imposition of fines, penalties and costs.
3-203. Disposition and report of fines, penalties and costs.
3-204. Disturbance of proceedings.
3-205. Trial and disposition of cases.
3-206. Clerk of the court.

3-201. **Maintenance of docket.** The municipal judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines; penalties; and costs imposed and whether collected; and all other information that may be relevant. (Ord. #___, Aug. 1987)

3-202. **Imposition of fines, penalties and costs.** All fines, penalties and costs shall be imposed and recorded by the municipal judge on the municipal court docket in open court. In all cases heard or determined by him, the municipal judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions for similar work in state cases. (Ord. #___, Aug. 1987)

3-203. **Disposition and report of fines, penalties and costs.** All funds coming into the hands of the municipal judge in the form of fines, penalties, costs and forfeitures shall be recorded by him and paid over daily to the municipality. At the end of each month he shall submit to the governing body a report accounting for the collection or non-collection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (Ord. #___, Aug. 1987)

3-204. **Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the municipal court by making loud or unusual noises, by using indecorous, profane or blasphemous language, or by any distracting conduct whatsoever. (Ord. #___, Aug. 1987)

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1State law reference
3-205. **Trial and disposition of cases.** Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the municipal court is in session or the municipal judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (Ord. #____, Aug. 1987)

3-206. **Clerk of the court.** The city recorder shall be and act as clerk of the municipal court, and shall assist the municipal judge in that capacity as requested. (Ord. #____, Aug. 1987)
CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

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

3-301. Issuance of arrest warrants. The municipal judge shall have
the power to issue warrants for the arrest of persons charged with violating
municipal ordinances. (Ord. #___, Aug. 1987)

3-302. Issuance of summonses. When a complaint of an alleged
violation is made to the municipal judge, the judge may in his discretion, in lieu
of issuing an arrest warrant, issue a summons ordering the alleged offender to
personally appear before the municipal court at a time specified therein to
answer to the charges against him. The summons shall contain a brief
description of the offense charged but need not set out verbatim the provisions
of the ordinance alleged to have been violated. Upon failure of any person to
appear before the municipal court as commanded in a summons lawfully served
on him, the cause may be proceeded with ex parte, and the judgment of the
court shall be valid and binding subject to the defendant's right of appeal. (Ord.
#___, Aug. 1987)

3-303. Issuance of subpoenas. The municipal judge may subpoena as
witnesses all persons whose testimony he believes will be relevant and material
to matters coming before his court, and it shall be unlawful for any person
lawfully served with such a subpoena to fail or neglect to comply therewith.
(Ord. #___, Aug. 1987)

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1State law reference
For authority to issue warrants, see Tennessee Code Annotated, title
40, chapter 6.
CHAPTER 4

BONDS AND APPEALS

SECTION
3-401. Appearance bonds authorized.
3-402. Appeals.
3-403. Bond amounts, conditions and forms.
3-404. Deposit of license in lieu of bail.

3-401. Appearance bonds authorized. When the municipal judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the municipal judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (Ord. #___, Aug. 1987)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the municipal court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (Ord. #___, Aug. 1987)

3-403. Bond amounts, conditions and forms. An appearance bond in any case before the municipal court shall be in such amount as the municipal judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the municipal court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars ($250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in the State Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (Ord. #___, Aug. 1987)

3-404. Deposit of license in lieu of bail. (1) Whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or

¹State law reference
arrested and charged with a violation of any municipal ordinance 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, within the corporate limits of the City of Niota or the jurisdiction of its law enforcement agencies, such person shall have the option of depositing his chauffeur's or operators license with the officer or court demanding bail in lieu of any other security required for his appearance in any court of the City of Niota to answer to such charge before the court.

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

(3) The clerk or judge of the court accepting the license shall thereafter forward to the Department of Safety the license of a driver deposited in lieu of bail if the driver fails to appear and answer to the charge filed against him and which license shall not be released by the Department of Safety until the charge for which such license was so deposited has been disposed of by the court in which pending.

(4) The provisions of this section are in addition to any other provision of the municipal code and are implemented as an alternative procedure to the other provisions of the code for the purpose of securing the appearance of defendants cited for violations of the municipal code. (Ord. #___, Aug. 1987)
TITLE 4

MUNICIPAL PERSONNEL

CHAPTER
1. SOCIAL SECURITY--CITY PERSONNEL.
2. VACATIONS AND SICK LEAVE--CITY PERSONNEL.
3. MISCELLANEOUS REGULATIONS--CITY PERSONNEL.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN.

CHAPTER 1

SOCIAL SECURITY--CITY PERSONNEL

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

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this city to provide for all eligible employees and officials of the city, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1978 Code, § 1-701)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1978 Code, § 1-702)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1978 Code, § 1-703)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be
required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1978 Code, § 1-704)

4-105. **Records and reports to be made.** The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1978 Code, § 1-705)
CHAPTER 2

VACATIONS AND SICK LEAVE--CITY PERSONNEL

SECTION
4-201. Applicability of chapter.
4-202. Vacation leave.
4-203. Sick leave.
4-204. Holidays.

4-201. Applicability of chapter. This chapter shall apply to all full-time municipal officers and employees except those operating under the jurisdiction of a school, utility, or other separate board or commission. (1978 Code, § 1-801)

4-202. Vacation leave. All employees must be full time employees for one full year before they are entitled to one (1) week paid vacation. Employees with two (2) years to fourteen (14) years service are entitled to two (2) weeks paid vacation and employees with fifteen (15) years or more are entitled to three (3) weeks paid vacation. All employees must advise the city at least one (1) month before taking a vacation so plans can be made to cover for them. (1978 Code, § 1-802, modified)

4-203. Sick leave. All city employees are entitled to one (1) sick day a month and may accumulate up to 30 days. (1978 Code, § 1-803, modified)

4-204. Holidays. The following are paid holidays for all city employees:

NEW YEARS DAY
GOOD FRIDAY
MEMORIAL DAY
FOURTH OF JULY
LABOR DAY
THANKSGIVING DAY
CHRISTMAS EVE
CHRISTMAS DAY
EMPLOYEE'S BIRTHDAY
PERSONAL DAYS - TWO
CHAPTER 3
MISCELLANEOUS REGULATIONS--CITY PERSONNEL

SECTION
4-301. [Repealed.]
4-302. [Repealed.]
4-303. [Repealed.]
4-304. Political activity.
4-305. [Repealed.]
4-306. [Repealed.]
4-307. Strikes and unions.

4-301. [Repealed.] (1978 Code, § 1-901, as repealed by Ord. #1-401, May 2007)

4-302. [Repealed.] (1978 Code, § 1-902, as repealed by Ord. #1-401, May 2007)

4-303. [Repealed.] (1978 Code, § 1-903, as repealed by Ord. #1-401, May 2007)

4-304. Political activity. Municipal officers and employees may individually exercise their right to vote and privately express their political views as citizens. However, no municipal officer or employee shall solicit political campaign contributions or engage in or actively participate in any municipal political campaign. These restrictions shall not apply to elective officials or to off-duty law enforcement officers acting as private citizens. (1978 Code, § 1-904, modified)

4-305. [Repealed.] (1978 Code, § 1-905, as repealed by Ord. #1-401, May 2007)

4-306. [Repealed.] (1978 Code, § 1-906, as repealed by Ord. #1-401, May 2007)

4-307. Strikes and unions. No city officer or employee shall participate in any strike against the city, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees. (1978 Code, § 1-907)
CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

SECTION
4-401. Title.
4-402. Purpose.
4-403. Coverage.
4-404. Standards authorized.
4-405. Variances from standards authorized.
4-406. Administration.
4-407. Funding the program plan.

4-401. Title. This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Niota. (as added by Ord. #7-14, Sept. 2014)

4-402. Purpose. The City of Niota in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan 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 the 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) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the 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.

The Plan of Operation for the Occupational Safety and Health Program Plan for the employees of the City of Niota is available for review in the office of the city recorder.
(4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

(5) Consult with the 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 plan, 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 plan. (as added by Ord. #7-14, Sept. 2014)

4-403. **Coverage.** The provisions of the occupational safety and health program plan for the employees of the City of Niota shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (as added by Ord. #7-14, Sept. 2014)

4-404. **Standards authorized.** The occupational safety and health standards adopted by the City of Niota are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.\(^1\) (as added by Ord. #7-14, Sept. 2014)

4-405. **Variances from standards authorized.** The City of Niota may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may 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 and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Niota shall notify or serve notice to our 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

\(^1\)State law reference

Tennessee Code Annotated, title 50, chapter 3.
designated by the City of Niota shall be deemed sufficient notice to employees. (as added by Ord. #7-14, Sept. 2014)

4-406. Administration. For the purposes of this chapter, the safety director of occupational safety and health is designated to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, chapter 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (as added by Ord. #7-14, Sept. 2014)

4-407. Funding the program plan. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Niota Commission. (as added by Ord. #7-14, Sept. 2014)
TITLE 5
MUNICIPAL FINANCE AND TAXATION

CHAPTER
1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PURCHASING POLICY AND PROCEDURES.

CHAPTER 1
MISCELLANEOUS

SECTION

5-101. Official depository for city funds. The Bank of Niota, Tennessee, is hereby designated as the official depository for all city funds. (1978 Code, § 6-101)

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1Charter references
CHAPTER 2

REAL PROPERTY TAXES

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

5-201. When due and payable. 1 Taxes levied by the city against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1978 Code, § 6-201)

5-202. When delinquent--penalty and interest. 2 All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes. 3 (1978 Code, § 6-202)

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

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

3 Charter and state law references
A municipality has the option of collecting delinquent property taxes any one of three ways:
(1) Under the provisions of its charter for the collection of delinquent property taxes.
(2) Under Tennessee Code Annotated, §§ 6-55-201-6-55-206.
(3) By the county trustee under Tennessee Code Annotated, § 67-5-2005.
CHAPTER 3

PRIVILEGE TAXES

SECTION

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. (1978 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon such applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1978 Code, § 6-302)
CHAPTER 4

WHOLESALE BEER TAX

SECTION
5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1978 Code, § 6-401)

¹State law reference
Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 17% on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.
CHAPTER 5

PURCHASING POLICY AND PROCEDURES

SECTION
5-501. Finance officer; powers. 
5-502. Purchasing cost and requirements. 
5-503. Finance officer's responsibilities (city recorder). 
5-504. Using department's responsibilities (commissioner or designee). 
5-505. Purchase requisition. 
5-506. Material receiving report form. 
5-507. Emergency purchases. 
5-508. Bids of $10,000 or more. 
5-509. Federal excise tax. 
5-510. Supply standardization requirements. 
5-511. Inspection of deliveries. 
5-512. Correspondence with suppliers. 
5-513. Claims. 
5-514. Public inspection of records. 
5-515. Finance officer or department head designees. 
5-516. Definitions. 

5-501. Finance officer; powers. The finance officer shall act as finance officer for the city, with power, except as set out in these procedures, to purchase materials, supplies, equipment; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the city's business. All contracts, leases, and lease-purchase agreements extending beyond the end of any fiscal year must have prior approval of the governing body. (as added by Ord. #9-08-14, Sept. 2014)

5-502. Purchasing cost and requirements. (1) The finance office shall have the authority to make purchases, leases, and lease purchases based on the following schedule:

Purchasing Cost and Requirements

$500 or less Purchases may be made with purchase requisition but three (3) prices (quotes) are not required; it is recommended that at least two (2) prices are obtained

$501-$2,500 A minimum of three (3) competitive prices shall be obtained via telephone, written quotation, internet, faxed quotations, etc. and either noted on the requisition or attached to the requisition and approval of the mayor and board of commissioners
$2,501-$10,000  A minimum of three (3) competitive prices shall be obtained via written quotations or faxed quotations and the quotations attached to the requisition and approval of the mayor and board of commissioners.

Over $10,000  No purchase shall be made at any time in an amount which in total will exceed ten thousand dollars ($10,000.00) unless bids have been requested in at least a newspaper of general circulation and written invitations to bid made available not less than fourteen (14) days prior to the opening of bids.

(2) Competitive bids or quotations for the purchase of items that cost less than five hundred dollars ($500.00) are desirable but not mandatory. All competitive bids or quotations received shall be recorded and maintained in the office of the finance officer for a minimum of seven (7) years after contract expires. When requisitions are required, the competitive bids or quotations received shall be listed upon that document prior to the issuance of the purchase order. Awards shall be made to the lowest and best responsive bidder unless a majority of the governing body deems it necessary to do otherwise in the best interest of the city.

(3) A description of all projects or purchases, except as herein provided, that require the expenditure of city funds of ten thousand dollars ($10,000.00) or more shall be prepared by the finance officer and submitted to the governing body for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the governing body may authorize the finance officer to advertise for bids or proposals. The award of purchases, leases, or lease-purchases of ten thousand dollars ($10,000.00) or more shall be made by the governing body to the lowest and best bid unless a majority of the governing body deems it necessary to do otherwise in the best interest of the city.

(4) Purchases amounting to ten thousand dollars ($10,000.00) or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the governing body:

(a) Sole source of supply or proprietary products as determined after complete search by using the department and the finance officer, with governing body approval.

(b) Emergency expenditures with subsequent approval of the governing body.

(c) Purchases from instrumentalities created by two (2) or more cooperating governments.
(d) Purchases from nonprofit corporations whose purpose or one of whose purposes is to provide goods or services specifically to municipalities.

(e) Purchases, leases or lease-purchases of real property.

(f) Purchases, leases, or lease-purchases, from any federal, state, or local governmental unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment.

(g) Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983.

(h) Purchases directed through or in conjunction with the state Department of General Services.

(i) Purchases from Tennessee state industries.

(j) Professional service contracts as provided in Tennessee Code Annotated, § 12-4-106.

(k) Tort liability insurance as provided in Tennessee Code Annotated, § 29-20-407.

(l) Purchases of fuels, fuel products or perishable commodities.

(m) Purchases of natural gas and propane gas for re-sale.

(5) The finance officer shall be responsible for following these procedures and the Municipal Purchasing Law of 1983, as amended, including keeping and filing required records and reports, as if they were set out herein and made a part hereof and within definitions of words and phrases from the law as herein defined.

(6) The finance officer is a service agency for all other departments of the city. The purchasing function is a service, and for the mutual benefits gained to go toward the good of the city, all departments must work in harmony. This manual is a guide to help the departments know their buying responsibilities. (as added by Ord. #9-08-14, Sept. 2014)

5-503. Finance officer's responsibilities (city recorder). (1) To aid and cooperate with all departments in meeting their needs for supplies, equipment, and services.

(2) To process all requisitions with the least possible delay.

(3) To procure a product that will meet the department's requirements at the least cost to the city.

(4) To assist in preparation of specifications and to maintain specification and historical performance files.

(5) To prepare and advertise requests for bids and maintain bid files.

(6) To be aware at all times, and make departments and the governing body aware of any purchase requests that are outside the approved appropriations for the current fiscal year. (as added by Ord. #9-08-14, Sept. 2014)
5-504. **Using department's responsibilities (commissioner or designee).**

(1) To allow ample lead time for the finance officer to process the requisition and issue the purchase order, while permitting the supplier time to deliver the needed items.

(2) To prepare a complete and accurate description of materials to be purchased.

(3) To help the finance officer by suggesting sources of supply.

(4) To plan purchases in order to eliminate avoidable emergencies.

(5) To initiate specification preparation on items to be bid.

(6) To inspect merchandise upon receipt, and complete a receiving report noting any discrepancies in types, numbers, condition, or quality of goods.

(7) To advise the finance officer of defective merchandise or dissatisfaction with vendor performance.

(8) To advise the finance officer of surplus property.

(9) To know the department's budget and not exceed its appropriations.

(10) To know the sources and availability of needed products and services and maintain current vendor files.

(11) To obtain prices on comparable materials after receipt of departmental requisition.

(12) To select vendors, prepare purchase orders, and process and maintain order and requisition files.

(13) To search for new, improved sources of supplies and services.

(14) To keep items in store in sufficient quantities to meet normal requirements of the city for a reasonable length of time within space availability.

(15) To investigate and document complaints about merchandise and services for future reference.

(16) To transfer or dispose of surplus property. (as added by Ord. #9-08-14, Sept. 2014)

5-505. **Purchase requisition.** (1) **Purpose.** A purchase requisition lets the finance officer know, in detail, what the using department needs. A requisition is required for purchases, requesting price information, initiating a bid request, and for requesting governing body approval on major expenditures.

(2) **When prepared.** Requisitions shall be prepared far enough in advance that the finance officer can ensure the vendor has enough time to make the delivery.

(3) **Who prepares the requisition.** Requisitions shall originate in the using department and must be signed by the commissioner and the department head. The department head shall file with the finance officer a certified memorandum listing those who are authorized to sign a requisition.
(4) **How to prepare.** A properly processed purchase requisition must contain the following information:

(a) **Date issued.** The date the requisition is prepared.

(b) **Date wanted.** State a definite delivery date. "At Once", "ASAP," and "Rush" are vague instructions and don't give the finance officer sufficient information. Prepare far enough in advance to avoid emergencies.

(c) **Requisition number.** Place the sequential number in this area if your department keeps a numerical requisition file.

(d) **Department.** The complete name of using department.

(e) **Requisitioned.** Signature of the person initiating the purchase request.

(f) **Department head.** Signature of the department head.

(g) **Suggested vendors.** If there are more than three (3) suggested vendors, the department head should list on a separate sheet.

(h) **To be delivered to.** Be specific. If vague or indefinite, confusion may result in costly delays.

(i) **Item number.** Numerical order of items listed.

(j) **Quantity.** The number required.

(k) **Unit.** Dozen, lineal feet, gallons, etc.

(l) **Description.** Give a clear description of the items, including size, color, type, etc. If the purchase is of a technical nature, specifications should be attached to the requisition. If the item cannot be described without a great amount of detail, a brief description should be given, followed by a trade name and model number of an acceptable item "or approved equal." Requisitions must not give specifications that will favor one supplier to the exclusion of any others. NOTE: Incomplete information in this area will result in the requisition being returned to the using department for clarification.

(m) **Account to be charged.** Complete budgetary code.

(n) **Unit price.** Price for each individual item.

(o) **Amount.** A total of quantity times unit price.

(5) **General information.** A requisition must be completed before a purchase is made, except when stated otherwise:

(a) **The using department obtains prices for any needed item after receiving a departmental requisition.** All requests for prices will be processed in this manner.

(b) **Suggested vendors will be of great assistance to the finance officer and will be given full consideration.** This information will allow the department to process the requisition quickly.

(c) **Approximate cost of items will help buyers know if bids are required.**
(d) If a requisition is incomplete or improperly prepared, the finance officer shall return it to the using department for completion. An incomplete requisition can cause unnecessary delays.

(e) The requisitioner shall not split orders to avoid any provision of the city code or charter, this manual, or any policy established by the city, nor shall requisitions be submitted for the sole purpose of using up budgetary balances.

(6) Insufficient funds. If the finance officer says there is not enough in the budget account, he/she will notify the department head. (as added by Ord. #9-08-14, Sept. 2014)

5-506. Material receiving report form. (1) Purpose. The material receiving report form is designed to let the finance officer know that an item(s) of a particular order has been received.

(2) When prepared. The bill is immediately sent to the finance officer upon receipt of materials, supplies, or services.

When any item(s) is not in satisfactory condition, a statement about the condition of the item(s) must be made in the description column. There is no need to write anything in this column if the item is undamaged.

(3) Who prepares. The person receiving the merchandise. (as added by Ord. #9-08-14, Sept. 2014)

5-507. Emergency purchases. (1) Purpose. Emergency purchases are to be made by departments only when normal functions and operations of the department would be hampered by submitting a requisition in the regular manner, or when property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., and are needed immediately.

(2) Who makes emergency purchases. Emergency purchases, either verbal or written, may be made directly by the using department without competitive bids, provided sufficient funds are available and necessary approvals have been secured.

(3) Who authorizes emergency purchases. Three (3) members of the governing body need to be notified before authorizing any emergency purchase.

(4) General information. Emergency purchases are costly and should be kept to a minimum. Avoiding emergency orders will save the city money. (as added by Ord. #9-08-14, Sept. 2014)

5-508. Bids of $10,000 or more. Sealed bids are required on purchases of ten thousand dollars ($10,000.00) or more. Bids must be advertised in a local newspaper of general circulation not less than fourteen (14) days before bid opening date.

(1) Finance officer's responsibilities. (a) Prepare bid requests; 
(b) Establish date and time for bid opening;
(c) Select possible sources of supply;
(d) Prepare specifications (unless of a technical nature, such as architectural, engineering, etc.) using department’s input and assistance.
(e) Mail bid requests and advertise as appropriate. If delivered by hand, a receipt of the bid request should be signed by the vendor;
(f) Receive and open bids;
(g) Evaluate bids using department’s assistance;
(h) Prepare bids and make a recommendation on award to governing body for approval;
(i) Process purchase order after governing body approval;
(j) Maintain all specification and bid data files.

(2) Using department’s responsibilities.

(a) Prepare requisition to begin bid process. This should contain specific information about items needed. For example, quantity, size, brand preferred, performance requirements, etc.
(b) Submit requisition to begin bid request to the finance officer at least three (3) weeks prior to the date bids are to be opened.
(c) Assist in specification preparation if needed.
(d) Assist in evaluation of bid results.

(3) General information--non emergency purchases. The following policies shall apply to sealed bids:

(a) No telephone bids will be accepted.
(b) Bid or proposal opening. Bids will be opened at the time and date specified on the bid request. All bids are opened publicly and read aloud, with a tabulation provided to all vendors participating. Proposals for extensive systems, complicated equipment, or construction projects, with prior approval of the governing body, may be opened privately in cases where the disclosure of the contents of the proposal could not readily be evaluated and would have a negative impact on both the vendor and the city.
(c) Electronic bids. The invitation for bids shall be distributed electronically and bids shall be considered when they are received in hand at the designated office if by the time and date set for receipt of bids. Such electronic bids or proposals shall contain specific reference to the invitation for bids; the items, quantities, and prices for which the bid is submitted; the time and place of delivery; and a statement that the bidder agrees to all the terms, conditions, and provisions of the invitation for bids.
(d) Late bids. No bids received after closing time will be accepted. All late bids will be returned unopened to the vendor. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be returned unopened.
(e) Bid opening schedule. The finance officer is responsible for setting bid opening dates and times.
(f) Bid form. The finance officer sends a copy of bid request forms or request for proposal form to each bidder. Bids will be accepted according to the directions in the bid request or proposal form.

(g) Acceptance of bids. The city reserves the right to reject any or all bids, to waive any irregularities in a bid, to make awards to more than one (1) bidder, to accept any part or all of a bid, or to accept the bid (or bids) that in the judgment of the governing body is in the best interest of the city.

(h) Shipping charges. Bids are to include all shipping charges to the point of delivery. Bids will be considered only on the basis of delivered price, except as otherwise authorized by the governing body.

(i) Sample product policy. The finance officer may request a sample product as part of a bid. If this is stated on the bid proposal form, the vendor is required to comply with this request or have the bid removed from consideration.

(j) Approved equal policy. Specifications in the request for bid are intended to establish a desired quality or performance level or other minimum requirements that will provide the city with the best product available at the lowest possible price. When a brand name or model is designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must include the brand name or model to be furnished, along with complete specifications and descriptive literature and, if requested, a sample for testing. Brands or models other than those designated as "equal to" products shall receive equal consideration.

(k) Alternate bids. Should it be found, after bids have been opened, that a product has been offered with an alternative specification and that this product would be better for the city to use, all bids for that item may be rejected and specifications redrawn to allow all bidders an equal opportunity to submit bids on the alternate item.

(l) Vendor identification. Potential suppliers are selected from existing vendor files using department's suggestions and any and all sources available to locate vendors related to a specific product or service. New suppliers are added to the bid list as they are found.

(m) Tie bids. A tie bid is one in which two (2) or more vendors bid identical items at the same unit cost. The winning bidder among tie bids may be determined by one of the following factors:

(i) Discount allowed;
(ii) Delivery schedule;
(iii) Previous vendor performance;
(iv) Vendor location;
(v) Trade-in value offered.

(n) Cancellation of invitation for bid or request for proposal. An invitation to bid, a request for proposal, or other solicitations may be canceled, or any or all bids or proposals may be rejected in part as may
be specified in the solicitation when it is in the best interest of the city. The reasons shall be made a part of the bid or proposal file.

(o) Public advertisement. In addition to publication in a newspaper of general circulation as required by law, the finance officer may make any other efforts to let all prospective bidders know about the invitation to bid. This may be accomplished by delivery, verbally, mail, or by posting the invitation to bid in a public place. It is not required that specifications be included in the invitation to bid. However, this notice should state clearly the purchase to be made.

(p) Mistakes in bids. Mistakes in bids detected prior to bid opening may be corrected by the bidder withdrawing the original bid and submitting a revised bid prior to the bid opening data and time. Bidder mistakes detected by the bidder after the bids have been opened based on miscalculation may be withdrawn only with the approval of the finance officer. The finance officer shall determine if all or a portion of any bid bond shall be surrendered to the city as liquidated damages for any costs associated with the bid withdrawal.

(q) Bid bond. The governing body may require that bidders submit a bid bond or other acceptable guarantee equal to five percent (5%) of the bid to ensure that the lowest responsible bidder selected by the board enters into a contract with the city. All or a portion of the bid bond shall be surrendered to the city as liquidated damages should the successful bidder fail to enter into a contract awarded by the board.

(r) Performance bond. The governing body may require and then include in the bid documents a requirement for the successful bidder to post a performance bond or other guarantee satisfactory to the city attorney that insures the faithful performance of all of the terms and conditions of the purchase contract.


(A) "Competitive sealed bidding as defined in this code is the preferred method of procurement. Although the formal sealed bid process should remain a standard in public purchasing, there is a place for competitive negotiation" (State and Local Government Purchasing. The Council of State Governments (1975) at 2.2). The competitive sealed proposal method (similar to competitive negotiation) is available for use when competitive sealed bidding is either not practicable or not advantageous.

(B) Both methods assure price and product competition. The use of functional or performance specifications is allowed under both methods to facilitate consideration of alternative means of meeting (state) needs (with evaluation and where appropriate)
on the basis of total or life cycle costs. The criteria to be used in the evaluation process under either method must be fully disclosed in the solicitation. Only criteria disclosed in the solicitation may be used to evaluate the items bid or proposed.

(C) These two (2) methods of source selection differ in the following ways:

(1) Under competitive sealed bidding, judgmental factors may be used only to determine if the supply, service or construction item bid meets the purchase description. Under competitive sealed proposals, judgmental factors may be used to determine not only if the items being offered meet the purchase description, but may also be used to evaluate competing proposals. The effect of this different use of judgmental evaluation is that under competitive sealed bidding, once the judgmental evaluation is completed, award is made on a purely objective basis to the lowest responsive and responsible bidder. Under competitive sealed proposals, the quality of competing products or services may be compared and trade-offs made between price and quality of the products or services offered (all as set forth in the solicitation). Award under competitive sealed proposals is then made to the responsible offer or whose proposal is most advantageous to the (state).

(2) Competitive sealed bidding and competitive sealed proposals also differ in that, under competitive sealed bidding, no change in bids is allowed once they have been opened, except for correction of errors in limited circumstances. The competitive sealed proposal method on the other hand, permits discussions after proposals have been opened to allow clarification and changes in proposals provided that adequate precautions are taken to treat each other fairly and to ensure that information gleaned from competing proposals is not disclosed to other offers.

(ii) In addition to price, the following points should be considered when awarding a bid:

(A) The ability of the bidder to perform the contract or provide the material or service required.

(B) Whether the bidder can perform the contract or provide the material or service promptly or within the time specified, without delay or interference.

(C) The character, integrity, reputation, experience and efficiency of the bidder.
(D) The previous and existing compliance, by the bidder, with laws and ordinances relating to the contract or service.

(E) The ability of the bidder to provide future maintenance and service for the use of the subject contract.

(F) Terms and conditions stated in bid.

(G) Compliance with specifications or request for proposal.

(iii) Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed on, or failure to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one (1) or more of the following actions:

(A) Removal of a vendor from bid list for a period to be determined by the governing body.

(B) Allowing the vendor to find the needed item for the city from another supplier at no additional cost to the city.

(C) Allowing the city to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost resulting from this purchase.

(D) Allowing monetary settlement.

(iv) Materials, supplies, or services that are needed constantly for city operations will be taken on a formal bid and will be awarded by the governing body for a contract period determined to be in the best interest of the city. This procedure shall be used in cases where the amount of the purchase of said materials, supplies, or services will be ten thousand dollars ($10,000.00) or more within the fiscal year. For amounts below ten thousand dollars ($10,000.00), the award will be made by the governing body.

(v) Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities shall not be signed by any city employee unless authorized in writing by action of the governing body.

(vi) When a department head decides there is excess equipment or material in the department, he or she shall notify the finance officer in writing. The commissioner will figure out the best way to dispose of items with an estimated value of less than one hundred dollars ($100.00) and inform the department head. Items with an estimated value of more than one hundred dollars ($100.00) shall be advertised for bidding, which will begin after the
finance officer has received approval from the governing body. Such equipment or materials will be sold to the highest bidder.

(vii) However, the finance officer may transfer surplus equipment or material from one (1) department to another. With approval of the governing body, equipment or material also may be sold at public auction.

(viii) When necessary, the department head may have all deliveries of supplies, materials, equipment, or contractual services inspected to be sure their performance meets specifications made in an order or contract.

(ix) The department head also may require chemical and physical tests of materials submitted with bids and delivery samples or after products have been delivered. These tests may be necessary to be sure the quality of materials meets the desired standards. When performing such tests, the finance officer may use the facilities of any outside lab. (as added by Ord. #9-08-14, Sept. 2014)

5-509. Federal excise tax. The city is exempt from the payment of excise taxes imposed by the federal government, and suppliers should be requested to deduct the amount of such taxes from their bids, quotations, and invoices. (as added by Ord. #9-08-14, Sept. 2014)

5-510. Supply standardization requirements. Standardizing supplies and materials that can be bought in large quantities can save a great deal of money. Thus, department heads should adopt as standards the minimum number of quantities, sizes, and varieties of commodities consistent with successful operation. Where practical, materials and supplies should be brought on the basis of requirements for a six-month period. (as added by Ord. #9-08-14, Sept. 2014)

5-511. Inspection of deliveries. No invoices for supplies, materials, or equipment shall be accepted for payment until such supplies, materials, etc., have been received and inspected by the department head. (as added by Ord. #9-08-14, Sept. 2014)

5-512. Correspondence with suppliers. Copies of any correspondence with suppliers concerning prices, adjustments, or defective merchandise shall be forwarded to the finance officer. All invoices, bills of lading, delivery tickets, and other papers relating to purchases shall be sent to the finance officer. (as added by Ord. #9-08-14, Sept. 2014)

5-513. Claims. The finance officer with department head notification shall prosecute all claims for shortages, breakages, or other complaints against
either shipper or carrier in connection with shipments. (as added by Ord. #9-08-14, Sept. 2014)

5-514. Public inspection of records. The finance officer shall keep a complete record of all quotations, bids, and purchase orders. Such records shall be open to public inspection. (as added by Ord. #9-08-14, Sept. 2014)

5-515. Finance officer or department head designees. When a position such as finance officer, or department head is mentioned, their assistants or designees are acceptable substitutes if they have written permission to do so. (as added by Ord. #9-08-14, Sept. 2014)

5-516. Definitions. (1) "Customarily purchased." Items that are purchased regularly under specific circumstances considered reasonable and appropriate.

(2) "Like items." Items that are similar and may be bought at the lowest common denominator, such as size, color, etc.

(3) "Lot." A single grouping of like items to be purchased at one time.

(4) "Single source of supply." When only one (1) vendor is available for a product or service within a reasonable marketable distance of the city.

(5) "Proprietary product." A brand-name product made and marketed by one having the exclusive right to manufacture and sell.

(6) "Within the limits of the approved budget." Purchases must stay within appropriation limits in funds requiring budgets either by law, regulation, or policy. Appropriation limits do not apply to nonexpendable funds not requiring budgets, such as enterprise funds, intra-governmental service funds, and nonexpendable trust funds.

(7) "Performance and bid bonds." Performance and bid bonds as may be determined by the governing body.

(8) "Architect or engineer required." Plans, specifications and estimates for any public works project exceeding twenty-five thousand dollars ($25,000.00) must be prepared by a registered architect or engineer as required by Tennessee Code Annotated, § 62-2-107. (as added by Ord. #9-08-14, Sept. 2014)
TITLE 6

LAW ENFORCEMENT

CHAPTER
1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1

POLICE AND ARREST

SECTION
6-101. Policemen subject to chief's orders.
6-102. Policemen to preserve law and order, etc.
6-103. Policemen to wear uniforms and be armed.
6-104. When policemen to make arrests.
6-105. Policemen may require assistance.
6-106. Disposition of persons arrested.
6-107. Police department records.
6-108. Reserve police.

6-101. **Policemen subject to chief's orders.** All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1978 Code, § 1-401)

6-102. **Policemen to preserve law and order, etc.** Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1978 Code, § 1-402)

6-103. **Policemen to wear uniforms and be armed.** All policemen shall wear such uniform and badge as the governing body shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1978 Code, § 1-403)

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

(1) Whenever he is in possession of a warrant for the arrest of the person.
(2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1978 Code, § 1-404)

6-105. **Policemen may require assistance.** It shall be unlawful for any person willfully to refuse to aid a policeman in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary. (1978 Code, § 1-405)

6-106. **Disposition of persons arrested.** Unless otherwise authorized by law, when a person is arrested he shall be brought before the city court for immediate trial or allowed to post bond. When the city judge is not immediately available or the alleged offender does not post the require bond, he shall be confined. (1978 Code, § 1-406)

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

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1978 Code, § 1-407)

6-108. **Reserve police.** Reserve police may be appointed, duly sworn in, bonded and utilized to assist the chief of police when directed by the commissioners of fire and police, mayor, or board of commissioners. (1978 Code, § 1-408)
CHAPTER 2

WORKHOUSE

SECTION
6-201. County workhouse to be used.
6-202. Inmates to be worked.
6-203. Compensation of inmates.

6-201. County workhouse to be used. The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1978 Code, § 1-601)

6-202. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1978 Code, § 1-602)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars ($5.00) per day as credit toward payment of the fines and costs assessed against him. (1978 Code, § 1-603)
TITLE 7

FIRE PROTECTION AND FIREWORKS

CHAPTER
1. VOLUNTEER FIRE DEPARTMENT.
2. FIRE SERVICE OUTSIDE CITY LIMITS.

CHAPTER 1

VOLUNTEER FIRE DEPARTMENT

SECTION
7-101. Establishment, equipment, and membership.
7-102. Objectives.
7-103. Organization, rules, and regulations.
7-104. Records and reports.
7-105. Tenure and compensation of members.
7-106. Chief responsible for training and maintenance.
7-107. Chief to be assistant to state officer.

7-101. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations of the board of commissioners. Any funds raised by the volunteer fire department as a whole, or by any individual or group of volunteer firemen in the name of the volunteer fire department, and any gifts to the volunteer fire department shall be turned over to and become the property of, the city and the city shall use such funds in the equipping of the volunteer fire department. All other apparatus, equipment, and supplies of the volunteer fire department shall be purchased by or through the city and shall be and remain the property of the city. The volunteer fire department shall be composed of a chief appointed by the board of commissioners, and such number of subordinate officers and firemen as the fire chief shall appoint.

7-102. Objectives. The volunteer 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.

\[Municipal\ code\ reference\]
Special privileges with respect to traffic: title 15, chapter 2.
(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.

7-103. **Organization, rules, and regulations.** The chief of the volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department.

7-104. **Records and reports.** The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on those matters to the mayor or to the board of commissioners as they may require.

7-105. **Tenure and compensation of members.** The fire chief shall have the authority to suspend or discharge any other member of the volunteer fire department when he deems such action to be necessary for the good of the department. The fire chief may be suspended for up to thirty (30) days by the mayor, but may be dismissed only by the board of commissioners.

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

7-106. **Chief responsible for training and maintenance.** The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the board of commissioners.

7-107. **Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of 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.
CHAPTER 2

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION
7-201. Equipment to be used only within corporate limits generally.

7-201. Equipment to be used only within corporate limits generally. (1) No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless such fire is on city owned property or, in the opinion of the chief of the fire department, is in such hazardous proximity to property owned by or located within the city as to endanger the city property or unless expressly authorized in writing by the municipal governing body.

(2) Inapplicability. This section shall not be deemed applicable to situations arising under mutual aid agreements entered into between the city and any other governmental or governmentally approved entities. (1978 Code, § 7-307, as amended by Ord. #___, March 1989)

1Mutual aid agreements are of record in the office of the city recorder.
TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER
1. BEER.

CHAPTER 1

BEER

SECTION
8-102. Meetings of the beer board.
8-103. Record of beer board proceedings to be kept.
8-104. Requirements for beer board quorum and action.
8-105. Powers and duties of the beer board.
8-106. "Beer" defined.
8-107. Permit required for engaging in beer business.
8-108. Beer permits shall be restrictive.
8-109. Issuance of permits to aliens prohibited.
8-110. Interference with public health, safety, and morals prohibited.
8-111. Issuance of permits to persons convicted of certain crimes prohibited.
8-112. Prohibited conduct or activities by beer permit holders.
8-113. Revocation or suspension of beer permits.
8-114. Prohibited in residential areas.
8-115. Civil penalty in lieu of revocation or suspension.
8-116. Privilege tax.
8-117. Loss of clerk's certification for sale to minor.

8-101. Beer board established. The board of commissioners shall act as the beer board. (1978 Code, § 2-201)

8-102. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city

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1State law reference
Tennessee Code Annotated, title 57.

2State 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).
hall at such times as it shall prescribe. When there is business to come before the beer board a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1978 Code, § 2-202)

8-103. **Record of beer board proceedings to be kept.** The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1978 Code, § 2-203)

8-104. **Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1978 Code, § 2-204)

8-105. **Powers and duties of the beer board.** The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this city in accordance with the provisions of this chapter. (1978 Code, § 2-205)

8-106. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (1978 Code, § 2-206)

8-107. **Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars ($250.00). Said fee shall be in the form of a cashier's check payable to the City of Niota. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (1978 Code, § 2-207, modified)
8-108. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (1978 Code, § 2-208)

8-109. Issuance of permits to aliens prohibited. No permit to engage in the beer business shall be granted by the beer board to any person not a citizen of the United States nor to any syndicate or association unless all of the members thereof are citizens of the United States. (1978 Code, § 2-209)

8-110. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the storage, sale, or manufacture of beer at places within three hundred (300) feet of any school, church or other such place of public gathering, measured along street rights of way. (1978 Code, § 2-210)

8-111. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (1978 Code, § 2-211)

8-112. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

1. Employ any minor under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to grocery stores selling beer for off-premises consumption only.)
2. Make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any night of the week, between the hours of 12:00 A.M. and 12:00 P.M. on Sunday; and on election days before and while the polls are lawfully open.
3. Allow any loud, unusual, or obnoxious noises to emanate from his premises.
4. Make or allow any sale of beer to a minor under twenty-one (21) years of age.
(5) Allow any minor under twenty-one (21) years of age to loiter in or about his place of business.

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

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

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

(9) Allow dancing on his premises.

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


8-113. Revocation or suspension of beer permits. (1) The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the municipal governing body.

(2) Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve-month period. The revocation shall be for three (3) years. (1978 Code, § 2-213, as amended by Ord. #8-117, Oct. 2007)

8-114. Prohibited in residential areas. It shall be unlawful for any person to open, maintain or operate any place where beer may be sold on any premises located where fifty per cent (50%) or more of the land is used for residential purposes. (1978 Code, § 2-214)
8-115. Civil penalty in lieu of revocation or suspension.

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," [Tennessee Code Annotated, § 7-5-601, et seq.]

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars ($2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars ($1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars ($1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as replaced by Ord. #8-117, Oct. 2007)

8-116. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars ($100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Niota, 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.

8-117. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under [Tennessee Code Annotated, § 57-5-606], sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as added by Ord. #8-117, Oct. 2007)
TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. ADULT-ORIENTED ESTABLISHMENTS.

CHAPTER 1

MISCELLANEOUS

SECTION


9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When a 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. (1978 Code, § 5-102)

¹Municipal code references
Liquor and beer regulations: title 8.
Noise reductions: title 11.
CHAPTER 2

PEDDLERS, ETC.¹

SECTION

9-201. Permit required.  It shall be unlawful for any peddler, canvasser, or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1978 Code, § 5-201)

9-202. Exemptions.  The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (1978 Code, § 5-202, as amended by Ord. #2-09, May 2009)

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

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

¹Municipal code references
Privilege taxes: title 5.
(3) A brief description of the nature of the business and the goods to be sold.

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

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

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

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

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

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

(10) At the time of filing the application, a fee of five dollars ($5.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1978 Code, § 5-203)

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

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

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1978 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at
least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1978 Code, § 5-205)

9-206. Bond. Every permittee shall file with the city recorder a surety bond running to the municipality in the amount of one thousand dollars ($1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1978 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1978 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1978 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1978 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1978 Code, § 5-210)
9-211. **Revocation or suspension of permit.** (1) Permits issued under the provisions of this chapter may be revoked by the governing body after notice and hearing, for any of the following causes:
   (a) Fraud, misrepresentation, or incorrect statement contained in the application for permit or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.
   (b) Any violation of this chapter.
   (c) Conviction of any crime or misdemeanor.
   (d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.
(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1978 Code, § 5-211)

9-212. **Reapplication.** No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1978 Code, § 5-212)

9-213. **Expiration and renewal of permit.** Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1978 Code, § 5-213)
CHAPTER 3

CHARITABLE SOLICITORS

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

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1978 Code, § 5-301)

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

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

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

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

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1978 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1978 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1978 Code, § 5-304)
CHAPTER 4

TAXICABS

SECTION

9-401. Taxicab franchise and privilege license required.
9-402. Requirements as to application and hearing.
9-403. Liability insurance or bond required.
9-404. Revocation or suspension of franchise.
9-405. Mechanical condition of vehicles.
9-408. License and permit required for drivers.
9-409. Qualifications for driver's permit.
9-410. Revocation or suspension of driver's permit.
9-411. Drivers not to solicit business.
9-412. Parking restricted.
9-413. Drivers to use direct routes.
9-414. Taxicabs not to be used for illegal purposes.
9-415. Miscellaneous prohibited conduct by drivers.
9-416. Transportation of more than one passenger at the same time.
9-417. Fares.

9-401. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license. (1978 Code, § 5-401)

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

1Municipal code reference
Privilege taxes: title 5.
service; present the application to the governing body; and make a recommendation to either grant or refuse a franchise to the applicant. The governing body shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the governing body shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1978 Code, § 5-402)

9-403. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the municipality. (1978 Code, § 5-403)

9-404. Revocation or suspension of franchise. The governing body, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1978 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any taxicab to operate in the municipality unless it 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. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1978 Code, § 5-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day.
At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1978 Code, § 5-406)

**9-407. Inspection of vehicles.** All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1978 Code, § 5-407)

**9-408. License and permit required for drivers.** No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1978 Code, § 5-408)

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

1. Makes written application to the chief of police.
2. Is at least eighteen (18) years of age and holds a state special chauffeur's license.
3. Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
4. Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
5. Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
6. Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
7. Is familiar with the state and local traffic laws. (1978 Code, § 5-409)

**9-410. Revocation or suspension of driver's permit.** The governing body, after a public hearing, may revoke or suspend any taxicab driver's permit for traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1978 Code, § 5-410)

**9-411. Drivers not to solicit business.** All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1978 Code, § 5-411)

**9-412. Parking restricted.** It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and
marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to interfere unreasonably with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1978 Code, § 5-412)

9-413. **Drivers to use direct routes.** Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1978 Code, § 5-413)

9-414. **Taxicabs not to be used for illegal purposes.** No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1978 Code, § 5-414)

9-415. **Miscellaneous prohibited conduct by drivers.** It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the municipality in any way. (1978 Code, § 5-415)

9-416. **Transportation of more than one passenger at the same time.** No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1978 Code, § 5-416)

9-417. **Fares.** A flat rate of ______ shall be the charge for transporting one passenger from any one place to any other place within the corporate limits. If more than one passenger is carried on the same trip there may be an additional charge not to exceed _____ for each such additional passenger. If the place of origin or the destination is outside the corporate limits the fare shall be the flat rate plus _____ for each mile or fraction thereof the taxicab is required to travel outside the corporate limits. No extra charge shall be made for baggage or parcels. (1978 Code, § 5-417)
CHAPTER 5

POOL ROOMS¹

SECTION
9-501. Prohibited in residential areas.
9-502. Hours of operation regulated.
9-503. Minors to be kept out; exception.

9-501. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1978 Code, § 5-501)

9-502. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1978 Code, § 5-502)

9-503. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1978 Code, § 5-503)

¹Municipal code reference
Privilege taxes: title 5.
CHAPTER 6

ADULT-ORIENTED ESTABLISHMENTS

SECTION
9-601. Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. It is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. (as added by Ord. #9-08, Sept. 2008)

9-602. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer
provides adult entertainment to member of the public, a patron or a member when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment having as a substantial portion of its stock in trade ("substantial portion" meaning over twenty percent (20%) of floor area, or over twenty percent (20%) of inventory by units or value, or over twenty percent (20%) of revenues, or an inventory of two hundred (200) or more units) in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

(3) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by means by patrons therein.

(4) "Adult mini-motion picture theater" means an enclosed theater with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical area," as defined below, for observation by means by patrons therein.

(5) "Adult cabaret" is defined to mean an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers, private dancers, strippers, male or female impersonators, or similar entertainers.

(6) "Board of commissioners" means the board of commissioners of the City of Niota, Tennessee.
(7) "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

(8) "Entertainer" means any person who provides entertainment within an adult-oriented establishment 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.

(9) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(11) "Specified sexual activities" means:
(a) Human genitals in a state of actual or stimulated sexual stimulation or arousal;
(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;
(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

(12) "Specified anatomical areas" means:
(a) Less than completely and opaquely covered:
   (i) Human genitals, pubic region;
   (ii) Buttocks;
   (iii) Female breasts below a point immediately above the top of the areola; and
(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered. (as added by Ord. #9-08, Sept. 2008)

9-603. **License required.** (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Niota without first obtaining a license to operate issued by the City of Niota.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.
(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty (120) day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (as added by Ord. #9-08, Sep. 2008)

9-604. **Application for license.** (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the City of Niota. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(2) The application for a license shall be upon a form provided by the police chief. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent (5%) of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited liability company) shall furnish the following information under oath:

(a) Name and addresses, including all aliases.

(b) Written proof that the individual(s) is at least eighteen (18) years of age.

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

(d) The applicants' height, weight, color of eyes and hair.

(e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.

(f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

(g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
(h) Fingerprint and two (2) portrait photographs at least two inches (2"") by two inches (2"") of each applicant.

(i) The address of the adult-oriented establishment to be operated by the applicant(s).

(j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.

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

(l) The length of time each applicant has been a resident of the City of Niota, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

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

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other used therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address, phone number, and representative's name.

(p) Evidence in form deemed sufficient to the city manager that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Niota Police Department, the police chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the board of commissioners.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board
of commissioners at which time the applicant may present evidence as to why his/her license should not be denied. The board shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the board of commissioners and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of McMinn County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the police chief. (as added by Ord. #9-08, Sept. 2008)

9-605. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:
   (i) The applicant shall be at least eighteen (18) years of age.
   (ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
   (iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:
   (i) All officers, directors and stockholders required to be named under § 9-603 shall be at least eighteen (18) years of age.
   (ii) No officer, director or stockholder required to be named under § 9-603 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:
(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Niota Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application.

9-606. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief.

(3) No license shall be issued unless the Niota Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application. (as added by Ord. #9-08, Sept. 2008)

9-607. Application for permit. (1) Any person desiring to secure a permit as an employee or entertainer shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(2) The application for a permit shall be upon a form provided by the police chief. An applicant for a permit shall furnish the following information under oath:

(a) Name and address, including all aliases;
(b) Written proof that the individual is at least eighteen (18) years of age;
(c) All residential addresses of the applicant for the past three (3) years;
(d) The applicant's height, weight, color of eyes, and hair;
(e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application;
(f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason
therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation;

(g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations;

(h) Fingerprints and two (2) portrait photographs at least two inches (2") by two inches (2") of the applicant;

(i) The length of time the applicant has been a resident of the City of Niota, or its environs, immediately preceding the date of the application;

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

(3) Within ten (10) days of receiving the results of the investigation conducted by the Niota Police Department, the police chief shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the police chief shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of commissioners at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief. (as added by Ord. #9-08, Sept. 2008)

9-608. Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

(a) The applicant shall be at least eighteen (18) years of age.

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.
(2) No permit shall be issued until the Niota Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application. (as added by Ord. #9-08, Sept. 2008)

9-609. Fees. (1) A license fee of five hundred dollars ($500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars ($100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (as added by Ord. #9-08, Sept. 2008)

9-610. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Niota Police Department, or any person designated by the board of commissioners. (as added by Ord. #9-08, Sept. 2008)

9-611. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of commissioners.

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

(3) If the Niota Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the police chief.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the police chief. The application for renewal must be filed not later
than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the employee. The application for renewal shall be upon a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of commissioners.

(5) A permit renewal fee of one hundred dollars ($100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars ($50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.

(6) If the Niota Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief. (as added by Ord. #9-08, Sept. 2008)

9-612. Revocation of license or permit. (1) The police chief shall revoke a license or permit for any of the following reasons:

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

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the board of commissioners pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the board of commissioners shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.
(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the McMinn County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board of commissioners, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (as added by Ord. #9-08, Sept. 2008)

9-613. **Hours of operation**. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Monday through Saturday, and between the hours of 1:00 A.M. and 12:00 P.M. on Sunday.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Niota Police Department, the McMinn County Sheriff's Department, or such other persons as the board of commissioners may designate. (as added by Ord. #9-08, Sept. 2008)

9-614. **Responsibilities of the operator**. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of commissioners. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.
(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Niota Police Department at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Niota Police Department at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:
This Adult-Oriented Establishment is Regulated by the City of
Entertainers are:
1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for
entertainment before its completion.
(as added by Ord. #9-08, Sept. 2008)

9-615. Prohibitions and unlawful sexual acts. (1) No operator,
entertainer, or employee of an adult-oriented establishment shall permit to be
performed, offer to perform, perform or allow customers, employees or
entertainers to perform sexual intercourse or oral or anal copulation or other
contact stimulation of the genitalia.
(2) No operator, entertainer, or employee shall encourage or permit
any person upon the premises to touch, caress, or fondle the breasts, buttocks,
anus or genitals of any other person.
(3) No operator, entertainer, or employee shall encourage or permit
any other person upon the premises to touch, caress, or fondle his or her breasts,
buttocks, anus or genitals.
(4) No operator, entertainer, employee, or customer shall be unclothed
or in such attire, costume, or clothing so as to expose to view any portion of the
sex organs, breasts or buttocks of said operator, entertainer, or employee with
the intent to arouse or gratify the sexual desires of the operator, entertainer,
employee or customer.
(5) 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 six feet (6')
from the nearest entertainer, employee and/or customer. (as added by
Ord. #9-08, Sept. 2008)

9-616. Penalties and prosecution. (1) Any person, partnership,
corporation, or other business entity who is found to have violated this chapter
shall be fined a definite sum not exceeding fifty dollars ($50.00) for each
violation and shall result in the suspension or revocation of any permit or
license.
(2) Each violation of this chapter shall be considered a separate
offense, and any violation continuing more than one (1) hour of time shall be
considered a separate offense for each hour of violation. (as added by Ord. #9-08,
Sept. 2008)

9-617. Severability. If a part of this chapter is invalid, all valid parts
that are severable from the invalid part remain in effect. If a part of this chapter
is invalid in one (1) or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications. (as added by Ord. #9-08, Sept. 2008)
TITLE 10

ANIMAL CONTROL

CHAPTER
1. IN GENERAL.
2. DOGS.

CHAPTER 1

IN GENERAL

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

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1978 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within one thousand (1,000) feet of any residence, place of business, or public street without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. For purposes of this title the Commissioner of Fire and Police shall serve as the health officer. (1978 Code, § 3-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1978 Code, § 3-103)
10-104. **Adequate food, water, and shelter, etc., to be provided.** No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

   All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1978 Code, § 3-104)

10-105. **Keeping in such manner as to become a nuisance prohibited.** No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1978 Code, § 3-105)

10-106. **Cruel treatment prohibited.** It shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any dumb animal or fowl. (1978 Code, § 3-106)

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

   The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the governing body, to cover the costs of impoundment and maintenance. (1978 Code, § 3-107)

10-108. **Inspection of premises.** For the purpose of making inspections to insure compliance with the provisions of this chapter, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1978 Code, § 3-108)
CHAPTER 2

DOGS

SECTION
10-201. Rabies vaccination and registration required.
10-203. Running at large prohibited.
10-204. Vicious dogs to be securely restrained.
10-205. Noisy dogs prohibited.
10-207. Seizure and disposition of dogs.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1978 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1978 Code, § 3-202)

10-203. Running at large prohibited. It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1978 Code, § 3-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to reasonably provide for the protection of other animals and persons. (1978 Code, § 3-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1978 Code, § 3-205)

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

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1 State law reference
police may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1978 Code, § 3-206)

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

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by the health officer or any policeman.¹ (1978 Code, § 3-207)

¹State law reference
For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).
TITLE 11

MUNICIPAL OFFENSES

CHAPTER
1. ALCOHOL.
2. FORTUNE TELLING, ETC.
3. OFFENSES AGAINST THE PEACE AND QUIET.
4. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
5. FIREARMS, WEAPONS AND MISSILES.
6. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
7. MISCELLANEOUS.

CHAPTER 1

ALCOHOL

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

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a beer permit and license for on premises consumption. (1978 Code, § 10-229)

11-102. Minors in beer places. No person under the age of twenty-one (21) shall loiter in or around, work in, or otherwise frequent any place where

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

2Municipal code reference
   Sale of alcoholic beverages, including beer: title 8.

State law reference
   See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).
beer is sold at retail for consumption on the premises. (1978 Code, § 10-222, modified)
CHAPTER 2

FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc.

11-201. Fortune telling, etc. It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1978 Code, § 10-234, modified)
CHAPTER 3
OFFENSES AGAINST THE PEACE AND QUIET

SECTION
11-301. Disturbing the peace.
11-302. Anti-noise regulations.

11-301. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1978 Code, § 10-202)

11-302. Anti-noise regulations. Subject to the provisions of this section the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.
(1) Miscellaneous prohibited noises enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:
   (a) Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
   (b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.
   (c) Yelling, shouting, 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.

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

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

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

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

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

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

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

(k) **Noises to attract attention.** The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.
(l) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

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

   (a) 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 city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

   (c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1978 Code, § 10-233)
CHAPTER 4

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-401. Escape from custody or confinement.
11-402. Impersonating a government officer or employee.
11-403. False emergency alarms.
11-404. Resisting or interfering with an officer.
11-405. Coercing people not to work.

11-401. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1978 Code, § 10-209)

11-402. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1978 Code, § 10-211)

11-403. 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. (1978 Code, § 10-217)

11-404. Resisting or interfering with an officer. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the municipality while such officer or employee is performing or attempting to perform his municipal duties. (1978 Code, § 10-210)

11-405. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1978 Code, § 10-230)
CHAPTER 5

FIREARMS, WEAPONS AND MISSILES

SECTION
11-501. Air rifles, etc.
11-502. Throwing missiles.
11-503. Discharge of firearms.

11-501. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1978 Code, § 10-213)

11-502. Throwing missiles. It shall be unlawful for any person to throw any stone, snowball, bottle, or any other missile maliciously upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1978 Code, § 10-214)

11-503. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1978 Code, § 10-212, modified)
CHAPTER 6
TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION
11-601. Trespassing.
11-602. Malicious mischief.
11-603. Interference with traffic.

11-601. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1978 Code, § 10-226)

11-602. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1978 Code, § 10-225)

11-603. 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. (1978 Code, § 10-232)
CHAPTER 7
MISCELLANEOUS

SECTION
11-701. Abandoned refrigerators, etc.
11-702. Caves, wells, cisterns, etc.
11-703. Posting notices, etc.
11-704. Curfew for minors.
11-705. Wearing masks.

11-701. **Abandoned refrigerators, etc.** It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1978 Code, § 10-223)

11-702. **Caves, wells, cisterns, etc.** It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1978 Code, § 10-231)

11-703. **Posting notices, etc.** No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1978 Code, § 10-227)

11-704. **Curfew for minors.** It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night between 11:00 P.M. and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1978 Code, § 10-224)

11-705. **Wearing masks.** It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

1. Children under the age of ten (10) years.
2. Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.
3. Persons wearing gas masks in civil defense drills and exercises or emergencies.
4. Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1978 Code, § 10-235)
TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING AND ENERGY CONSERVATION CODES.
2. RESIDENTIAL CODE.
3. SLUM CLEARANCE.
4. BUILDING PERMITS.

CHAPTER 1

BUILDING AND ENERGY CONSERVATION CODE

SECTION

12-102. Modifications.
12-103. Available in recorder’s office.
12-104. Violations and penalty.

12-101. Building code and energy conservation code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure (which is not covered by the International Residential Code that is herein adopted in chapter 2 of this title), the International Building Code, 2009 edition, and the International Energy Conservation Code, 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the building code and energy conservation code. (as added by Ord. #12-15-10, May 2011)

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

1Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.
(2) **Permit fees.** The schedule of permit fees shall be available in the city recorder's office. (as added by Ord. #12-15-10, May 2011)

12-103. **Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy each of the building code and energy conservation code have been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #12-15-10, May 2011)

12-104. **Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the building code and energy conservation code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #12-15-10, May 2011)
CHAPTER 2
RESIDENTIAL CODE

SECTION
12-201. Residential code adopted
12-203. Available in recorder's office.
12-204. Violations and penalty.

12-201. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions regulating the construction of one (1) and two (2) family dwellings, the International Residential Code, 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the residential code. Excluded from this adoption is any requirement that one (1) or two (2) family dwellings be constructed with sprinkler systems installed. No such sprinkler installation is required in this city code. (as added by Ord. #12-15-10, May 2011)

12-202. Modifications. (1) Definitions. Whenever in the residential code reference is made to the duties of a certain official named therein, that designated official of the city who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the residential code are concerned.

(2) Permit fees. The schedule of permit fees shall be available in the city recorder's office. (as added by Ord. #12-15-10, May 2011)

12-203. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #12-15-10, May 2011)

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #12-15-10, May 2011)

Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.
CHAPTER 3

SLUM CLEARANCE¹

SECTION
12-301. Findings of board.
12-302. Definitions.
12-303. "Public officer" designated; powers.
12-304. Initiation of proceedings; hearings.
12-305. Orders to owners of unfit structures.
12-306. When public officer may repair, etc.
12-307. When public officer may remove or demolish.
12-308. Lien for expenses; sale of salvage materials; other powers not limited.
12-309. Basis for a finding of unfitness.
12-310. Service of complaints or orders.
12-311. Enjoining enforcement of orders.
12-312. Additional powers of public officer.
12-313. Powers conferred are supplemental.

12-301. **Findings of board.** Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of commissioners finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-302. **Definitions.** (1) "Municipality" shall mean the City of Niota, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(2) "Governing body" shall mean the board of commissioners charged with governing the city.

(3) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.
(4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(5) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

(6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(7) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-303. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be such officer as the board of commissioners shall appoint or designate to exercise the powers prescribed by this chapter. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-304. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-305. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:
(1) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or

(2) if the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-306. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-307. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-308. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of McMinn County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one action for
debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of McMinn County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the City of Niota to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-309. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Niota; such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-310. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of McMinn County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-311. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit,
issue a temporary injunction restraining the public officer pending the final
disposition of the cause; provided, however, that within sixty (60) days after the
posting and service of the order of the public officer, such person shall file such
suit in the court.

The remedy provided herein shall be the exclusive remedy and no person
affected by an order of the public officer shall be entitled to recover any damages
for action taken pursuant to any order of the public officer, or because of
noncompliance by such person with any order of the public officer. (Ord. #1-94,
Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)

12-312. **Additional powers of public officer.** The public officer, in
order to carry out and effectuate the purposes and provisions of this chapter,
shall have the following powers in addition to those otherwise granted herein:

1. To investigate conditions of the structures in the city in order to
determine which structures therein are unfit for human occupation or use;
2. To administer oaths, affirmations, examine witnesses and receive
evidence;
3. To enter upon premises for the purpose of making examination,
provided that such entry shall be made in such manner as to cause the least
possible inconvenience to the persons in possession;
4. To appoint and fix the duties of such officers, agents and employees
as he deems necessary to carry out the purposes of this chapter; and
5. To delegate any of his functions and powers under this chapter to
such officers and agents as he may designate. (Ord. #1-94, Nov. 1994, as
renumbered by Ord. #12-15-10, May 2011)

12-313. **Powers conferred are supplemental.** This chapter shall not
be construed to abrogate or impair the powers of the city with regard to the
enforcement of the provisions of its charter or any other ordinances or
regulations, nor to prevent or punish violations thereof, and the powers
conferred by this chapter shall be in addition and supplemental to the powers
conferred by the charter and other laws. (Ord. #1-94, Nov. 1994, as renumbered
by Ord. #12-15-10, May 2011)

12-314. **Structures unfit for human habitation deemed unlawful.**
It shall be unlawful for any owner of record to create, maintain or permit to be
maintained in the city structures which are unfit for human occupation due to
dilapidation, defects increasing the hazards of fire, accident or other calamities,
lack of ventilation, light or sanitary facilities, or due to other conditions
rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to
the health, safety and morals, or otherwise inimical to the welfare of the
residents of the city.

Violations of this section shall subject the offender to a penalty of up to
five hundred dollars ($500) for each offense. Each day a violation is allowed to
continue shall constitute a separate offense. (Ord. #1-94, Nov. 1994, as renumbered by Ord. #12-15-10, May 2011)
CHAPTER 4

BUILDING PERMITS

SECTION

12-401. Enforcement officer. The provisions of this chapter shall be enforced by the city recorder in her official capacity. (Ord. #2, Aug. 1989, as renumbered by Ord. #12-15-10, May 2011)

12-402. Purpose of chapter. The purpose of this chapter is to allow the city to gather information relative to building and construction within the corporate limits to evaluate its impact on the provision of city services and the necessity of improving city services such as wastewater pretreatment programs, hazardous waste disposal and containment, and fire protection services. (Ord. #2, Aug. 1989, as renumbered by Ord. #12-15-10, May 2011)

12-403. Building permit required. Any person undertaking construction within the corporate limits of the City of Niota, from and after the effective date of this chapter, whether for residential, commercial, industrial or incidental purposes and uses, shall be required to obtain from the city recorder a building permit prior to the commencement of construction. For purposes of this chapter, construction shall include any new buildings, additions to existing buildings, and replacement of former or existing buildings. (Ord. #2, Aug. 1989, as renumbered by Ord. #12-15-10, May 2011)

12-404. Applications and content. Applications for building permits may be obtained and made on forms provided by the city recorder. Upon application, a fee of ten dollars ($10.00) shall be paid. The application and permit must be obtained prior to beginning construction. Applications will be filed with the city recorder, accompanied by a drawing or layout of the proposed construction showing entrances and exits, all utility connections, location of any hazardous materials storage or use, and the direction and distance of the nearest municipal fire hydrant. All applications shall contain the following information:

(1) name of applicant;
(2) owned or rented;
(3) if rented, name and address of owner;
(4) street address of construction location;
(5) mailing address of applicant;
(6) name of construction company, address, and contact person;
(7) size of proposed structure, including whether it is new, additional or replacement construction and the attached layout or drawing;
(8) primary construction material and style;
(9) whether hazardous materials will be used in construction, and whether the finished location will house hazardous materials;
(10) type of utilities used;
(11) estimate of cost of construction;
(12) whether the construction is residential, commercial, industrial or incidental; and
(13) any emergency systems being installed such as fire alarms, burglar alarms, sprinkler systems, etc.  (Ord. #2, Aug. 1989, as renumbered by Ord. #12-15-10, May 2011)

12-405. **Permit fee.** The cost of a permit shall be ten dollars ($10.00), payable upon application.  (Ord. #2, Aug. 1989, as renumbered by Ord. #12-15-10, May 2011)

12-406. **Enforcement of chapter.** For purposes of the enforcement of this chapter, no municipal utility services or other services provided by the municipality shall be authorized or lawfully provided to any location or address or person for which a building permit has not been issued prior to the request for such services.  (Ord. #2, Aug. 1989, as renumbered by Ord. #12-15-10, May 2011)
TITLE 13

PROPERTY MAINTENANCE REGULATIONS

CHAPTER
1. MISCELLANEOUS.
2. JUNKYARDS.
3. JUNK VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION
13-102. Smoke, soot, cinders, etc.
13-103. Stagnant water.
13-105. Dead animals.
13-106. Health and sanitation nuisances.
13-108. Overgrown and dirty lots.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the governing body shall appoint or designate to administer and enforce health and sanitation regulations within the municipality. (1978 Code, § 8-101)

13-102. Smoke, soot, cinders, etc. (1) It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.

(2) It shall be unlawful for any person to conduct open burning within the limits of the City of Niota including, but not limited to burning of brush, unless he has first obtained a permit for same from the fire chief or from the fire chief's appointed representative.

¹Municipal code references
Littering streets, etc.: § 16-107.
Toilet facilities in beer places: § 8-212(12).
(3) It shall be unlawful for any person to burn leaves within the limits of the City of Niota.

(4) It shall be unlawful for any person to burn products within the limits of the City of Niota, the burning of which products is specifically prohibited by the Environmental Protection Agency through its promulgation of rules and regulations relative to same. (1978 Code, § 8-105, as amended by Ord. #13-102, Feb. 2008)

13-103. **Stagnant water.** It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (1978 Code, § 8-106)

13-104. **Weeds.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1978 Code, § 8-107)

13-105. **Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1978 Code, § 8-108)

13-106. **Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1978 Code, § 8-109)

13-107. **House trailers.** It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures. (1978 Code, § 8-104)
13-108. Overgrown and dirty lots.¹ (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

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

(a) A brief statement that the owner is in violation of § 13-108 of the Niota Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned-up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after

¹Municipal code reference
Section 13-103 applies to cases where the city wishes to prosecute the offender in city court. Section 13-104 can be used when the city seeks to clean up the lot at the owner's expense and place a lien against the property for the cost of the clean-up but not to prosecute the owner in city court.
This title, chapter 2.
receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in McMinn County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These cost shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) **Appeal.** The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(6) **Judicial review.** Any person aggrieved by an order or act of board of mayor and aldermen under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

(7) **Supplemental nature of this section.** The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (as amended by Ord. #13-108, June 2008)
CHAPTER 2

JUNKYARDS¹

SECTION
13-201. Definitions.
13-203. Screening methods.
13-204. Requirements for effective screening.
13-207. Non-conforming junkyards.
13-208. Permits and fees.
13-209. Violations and penalty.

13-201. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.

(3) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

(4) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic, or corporation.

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the city. (Ord. #3-94, Sept. 1994)

13-202. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (Ord. #3-94, Sept. 1994)

¹Municipal code reference
Refuse and trash disposal: title 17.
13-203. **Screening methods.** The following methods and materials for screening are given for consideration only:

1. **Landscape planting.** The planting of trees, shrubs, etc., of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.

2. **Earth grading.** The construction of earth mounds which are graded, shaped, and planted to a natural appearance.

3. **Architectural barriers.** The utilization of:
   - Panel fences made of metal, plastic, fiberglass, or plywood.
   - Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative.
   - Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

4. **Natural objects.** Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen. (Ord. #3-94, Sept. 1994)

13-204. **Requirements for effective screening.** Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the city. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

1. Screens which provide a "see-through" effect when viewed from a moving vehicle shall not be acceptable.

2. Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

3. Screening shall be located on private property and not on any part of the highway right-of-way.

4. At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (Ord. #3-94, Sept. 1994)

13-205. **Maintenance of screens.** The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the city.

If not replaced within sixty (60) days the city shall replace said screening and shall require payment upon demand. Failure to pay in full shall result in
the fee plus interest to be assessed to the property and shall be combined with the subsequent taxation of the property by the city. (Ord. #3-94, Sept. 1994)

13-206. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (Ord. #3-94, Sept. 1994)

13-207. Non-conforming junkyards. Those junkyards within the city and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming." Such junkyards shall be subject to the following conditions, any violation of which shall terminate the non-conforming status:

(1) The junkyard must continue to be lawfully maintained.
(2) There must be existing property rights in the junk or junkyard.
(3) Abandoned junkyards shall no longer be lawful.
(4) The location of the junkyard may not be changed for any reason. If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the city.
(5) The junkyard may not be extended or enlarged. (Ord. #3-94, Sept. 1994)

13-208. Permits and fees. It shall be unlawful for any junkyard located within the city to operate without a "Junkyard Control Permit" issued by the city.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The city’s fiscal year begins on July 1 and ends on June 30 the year next following.
(2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars ($50.00) which is not subject to either proration or refund.
(3) All applications for an original or renewal permit shall be made on a form prescribed by the city.
(4) Permits shall be issued only to those junkyards that are in compliance with these rules.
(5) A permit is valid only while held by the permittee and for the location for which it is issued. (Ord. #3-94, Sept. 1994)

13-209. Violations and penalty. Violations of this chapter shall subject the offender to a penalty of up to five hundred dollars ($500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #3-94, Sept. 1994)
CHAPTER 3

JUNK VEHICLES

SECTION
13-301. Definitions.
13-302. Violations a civil offense.
13-304. Enforcement.
13-305. Penalty for violations

13-301. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.
(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.
(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.
(4) (a) "Vehicle" shall mean and machine propelled by power other than human power, designed to travel on ground, water or air, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, boats, pontoons, and airplanes, and any part of the same.
(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective including but not limited to any one or combination of any of the following ways that either makes the vehicle immediately inoperable or would prohibit the vehicle from being operated in a reasonably safe manner under its own power if self-propelled, or while being towed or pushed, if not self-propelled.
   (i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.
   (ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.
   (iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.
(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle. (as added by Ord. #2-11-13, Feb. 2013)

13-302. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, or maintain on private property a junk vehicle. (as added by Ord. #2-11-13, Feb. 2013)

13-303. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.
(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city. (as added by Ord. #2-11-13, Feb. 2013)

13-304. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector/police officer, or any designated official is authorized to issue ordinance summons for violation of this chapter on private property. The building inspector/police officer, or any designated official shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junk vehicles on private property. If after such investigation the building inspector/police officer, or any designated official finds a junk vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector/police officer, or designated official may:

(1) Request the city judge to issue a summons; or
(2) Request a police officer to witness the violation.

The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101, et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. In addition, pursuant to Tennessee Code Annotated, § 55-5-122, municipal courts may issue orders to remove vehicles from private property. (as added by Ord. #2-11-13, Feb. 2013)

13-305. Penalty for violations. Any person violating this chapter shall be subject to a civil penalty of fifty dollars ($50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (as added by Ord. #2-11-13, Feb. 2013)
TITLE 14
ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. MOBILE HOME, ETC. REGULATIONS.
3. FAIR HOUSING ORDINANCE.
4. FLOOD DAMAGE PREVENTION.

CHAPTER 1
MUNICIPAL PLANNING COMMISSION

SECTION
14-102. Organization, powers, duties, etc.
14-103. Additional powers.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the governing body selected by the governing body; the other three (3) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the governing body shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1978 Code, § 11-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1978 Code, § 11-102)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1978 Code, § 11-103)
CHAPTER 2

MOBILE HOME, ETC. REGULATIONS

SECTION
14-201. Definitions.
14-203. Regulating mobile home parks.
14-204. Regulating travel trailers and travel trailer parks.
14-205. Permits.
14-206. Fees for permits.
14-207. Application for permit.
14-208. Enforcement.
14-209. Appeals.
14-210. Violation and penalty.

14-201. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter.

(1) "Buffer strip." All evergreen buffer shall consist of a greenbelt planted strip not less than ten (10) feet in width. Such a green belt shall be composed of evergreen trees and shrubs or hedge planted in rows which will eventually grow to a height of not less than ten (10) feet.

(2) "Health officer." The director of a city, county or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(3) "Mobile home (trailer)." A detached single family dwelling unit with the following characteristics:

(a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable wheels.

(c) Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection utilities and the like.

(4) "Mobile home park." The term mobile home park shall mean any plot of ground within the City of Niota on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located.

(5) "Mobile home space." The term shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.
(6) "Permit (license)." A permit is required for mobile home parks, single mobile homes and travel trailer parks. Fees charged under the permit requirements are for inspection and the administration of this chapter.

(7) "Skirting" means a securely attached exterior material that extends around the bottom of the entire mobile home between the ground and the outer bottom portion of the dwelling.

(8) "Travel trailer." A travel trailer, pick-up camper, converted bus, tent-trailer, tent, or similar device used for temporary portable housing or a unit which:

(a) Can operate independent of connections to external sewer, water and electrical systems.
(b) Contains water storage facilities and may contain a lavatory, kitchen sink and/or bath facilities; and/or
(c) Is identified by the manufacturer as a travel trailer.

(9) "Travel trailer park." The term travel trailer park shall mean any plot of ground within the City of Niota on which two (2) or more travel trailers, occupied for camping of persons of short stay, are located.

(10) "Building inspector." A person employed by the City of Niota to enforce this chapter. In the absence of an individual so designated, duties under this chapter are assigned as follows:

(a) City recorder: receive applications for permits, receive fees, and issue permits for individual mobile homes.
(b) Police commissioner or his designee: issue, suspend, or revoke park permits in accordance with this chapter; perform required inspections and enforcement. (Ord. #1-91, June 1991, modified, as amended by Ord. #1-98, Jan. 1998)

14-202. General regulations for mobile homes. (1) It shall be unlawful for any mobile home to be used, stored, or placed on any lot after the date of passage of the provisions of this chapter, excepting mobile homes located on licensed mobile home sales lots, and except as provided in the following subsection.

(2) Any mobile home already placed on a lot outside of a mobile home park on or before the date of passage of the provisions in this chapter will be permitted to remain at its present location. Any mobile home site at any location with utility connections and other facilities constructed specifically for utilization as a permanent mobile home parking site, in existence prior to the date of passage of the provisions, shall be permitted to be utilized for parking and servicing mobile homes hereafter. If said present mobile home shall remain vacant for a period of sixty (60) days, said mobile home owner shall be given, at the end of that sixty (60) days, a period not to exceed fifteen (15) days in which to remove said mobile home and to comply with all provisions of this chapter.

(3) No mobile home shall be used, placed, stored or serviced by utilities within the City of Niota or within any mobile home park in said city unless
there is posted near the door of said mobile home a valid Tennessee State License. Mobile homes in mobile home subdivisions and any individually located mobile homes shall be assessed property taxes. No individual mobile home shall receive water service unless it has been given an approved permit/certificate of occupancy from the State Fire Marshall's Office. No mobile home in a park shall receive city water and sewer service unless the mobile home has received said permit from the State Fire Marshall and the park has a valid permit from the city.

(4) All mobile homes shall have skirting of fire and weather resistant material, which must be continually maintained. (Ord. #1-91, June 1991, modified, as amended by Ord. #1-98, Jan. 1998)

14-203. Regulating mobile home parks. (1) Permit for mobile home park. No place or site within said city shall be established or maintained by any person, group or persons, or corporation as a mobile home park unless he holds a valid permit issued by the city building inspector in the name of such person or persons for the specific mobile home park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

(2) Existing mobile home parks. Mobile home parks in existence as of the effective date of this chapter shall be required to obtain a mobile home park permit. Pre-existing mobile home parks which cannot comply with the requirements regarding mobile home parks shall be considered as a non-conforming use; provided, however, if at any time the ownership of said park shall change, said new owner shall be given a period not to exceed thirty (30) days in which to comply with current mobile home parks regulations in all respects. Failure to do so shall render him ineligible for a mobile home park permit at its then present location. However, the death of a husband or wife who owns a mobile home park as tenants by the entirety, and thereby leaving the entire ownership of the mobile home park in the surviving husband or wife, shall not be considered to be such a change of ownership of the mobile home park as to bring the owner within the purview and restrictive provisions of this paragraph. Also, the divorce or a husband or wife, and in connection therewith the awarding or conveying of a mobile home park to either husband or wife, shall not be considered to be such a change of ownership of the mobile home park as to bring the husband or wife owner within the purview and restrictive provisions of this paragraph.

(3) Inspections by city building inspector. The city building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks, in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The city building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of
inspecting and investigating conditions relating to the enforcement of this chapter.

(4) **Length of occupancy.** No mobile home space shall be rented in any mobile home park except for periods of thirty (30) days or more, and no mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the Mobile Home Manufacturing Association, Mobile Home Standards for Plumbing, Heating and Electrical Systems or any state administered code insuring equal or better plumbing, heating or electrical installations.

(5) **Location and planning.** The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the Niota Municipal Planning Commission.

(6) **Minimum size of mobile home park.** The tract of land for the mobile home park shall comprise an area of not less than two (2) acres. The tract of land shall consist of a single plot so dimensioned and related as to facilitate efficient design and management.

(7) **Minimum number of spaces.** Minimum number of spaces completed and ready for occupancy before first occupancy is six (6).

(8) **Minimum space requirements for mobile homes.** Each mobile home space shall be at least four thousand (4,000) square feet including parking area, with a minimum length of one hundred (100) feet. Each mobile home located in a mobile home park shall be situated such that there is at least:

   (a) Twenty (20) feet from the mobile home to any adjacent property line.
   (b) Thirty-five (35) feet from the mobile home to any public street right-of-way.
   (c) Ten (10) feet from the mobile home to any private street or access drive within the mobile home park.
   (d) Fifteen (15) feet of clear and open space between the mobile home and any adjacent mobile home and its attachments, and between the mobile home and any other buildings.

(9) **Water supply.** Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after written approval of plans and specifications has been granted by the county health officer. In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least every four (4) months and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the mobile home park operator to provide such treatment as is deemed necessary by the health officer to maintain a safe, potable water supply.
Water shall be furnished at the minimum capacity of two hundred and fifty (250) gallons per day per mobile home space. An individual water service connection shall be provided for each mobile home space.

(10) **Sewage disposal.** An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Each mobile home space shall be equipped with at least a four (4) inch sewer connection, trapped below the frost line and reaching at least four (4) inches above the surface of the ground. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line, except where sewer and water lines are closer together the water line pipe shall be laid and placed within another pipe as required by other ordinances and/or regulations of the City of Niota.

Every effort shall be made to dispose of the sewage through a public sewerage system. In lieu of this, individual septic tanks and subsurface soil absorption systems may be used provided the soil characteristics are suitable and an adequate disposal area is available. The minimum size of any septic tank to be installed under any condition shall not be less than five hundred (500) gallons working capacity.

The amount of effective soil absorption area of total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate shall be determined as outlined by the Tennessee Department of Public Health. No mobile home shall be placed over a soil absorption field.

In lieu of a public sewerage or septic tank system, an officially approved package treatment plant may be used.

(11) **Refuse.** The storage, collection and disposal of refuse, in the park shall be stored in fly proof, water tight and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least once per week.

(12) **Electricity.** An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather-proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code and Tennessee Department of Insurance and Banking Regulations No. 15, entitled "Regulation Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization.

(13) **Streets.** Minimum widths of various streets within mobile home parks shall be:

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

All streets, roads and alleys shall be graded by the developer so that street surfaces may be constructed to meet the required standards. Deviation from these standards due to topographical conditions will be allowed only with special approval of the planning commission. Before grading is begun, the entire roadway area shall be cleared of all stumps, roots, brush, and other objectionable materials and all trees not intended for preservation. All tree stumps, boulders, and other obstructions shall be removed to a depth of two (2) feet below the subgrade. Rock, when encountered, shall be scarified to a depth of twelve (12) inches below the subgrade. All suitable material from roadway cuts may be used in the construction of fills, approaches, or at other places as needed.

An adequate drainage system, including necessary open ditches, pipes, culverts, intersectioned drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water. Cross drains shall be provided to accommodate all natural water flow, and shall be of sufficient length to permit full width roadway and the necessary slopes.

After preparation of the subgrade, the roadbed shall be surfaced with crushed rock, stone or gravel. The size of the crushed rock or stone shall be that generally known as "crushed run stone" from two and one-half (2 ½) inches down, including dust. Spreading of the stone shall be done uniformly over the area by means of appropriate spreading devices. After spreading, the stone shall be rolled until thoroughly compacted. The compacted thickness, of the stone road way shall be no less than six (6) inches.

Between April and November 15 at a temperature of 35 degrees or above tar grade RT-2 or RT-1 inclusive, or MC-1 or MC-2, shall be applied at the rate of four-tenths (4/10) gallon per square yard of base surface. The stone chips graded from one-half (½) inch down to number eight (8) with no dust shall be applied at the rate of ten (10) to fifteen (15) pounds per square yard, rolled until thoroughly compacted and left to cure for such time as the city street commissioner or the county road superintendent may direct but not less than seven (7) days.

A wearing surface may not be required by the planning commission. However, if the planning commission elects to require a wearing surface, it shall consist of one (1), two-(2-) inch thick compacted thickness coarse asphaltic concrete (plant mixed) surface treatment.

Streets paved as described above shall remain private streets and are not eligible to be accepted by the city for maintenance. The owner shall be responsible for maintenance, traffic and parking control. City police may take accident reports.
Streets which are dedicated for public use and city maintenance shall meet the requirements of the Niota Subdivision Regulation, as amended (Section 9.09).

(14) **Parking space.** Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal traffic. Such facilities shall be provided at a rate of at least one (1) car space for each mobile home lot plus an additional car space for each four (4) lots to provide for guest parking, for two-car tenants and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home spaces. Where practical, one (1) car space shall be located on each lot or located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.

(15) **Buffer strip.** An evergreen buffer strip may be required along all boundaries of the mobile home park. (See definition.)

(16) **Utilities to each space.** Each space shall have utility connection for water, sewer, electric and telephone underground. Satellite or cable television connections and other special communications hook-ups may be provided. Electric, telephone and cable TV lines within the park shall be placed underground.

(17) **Requirements for large mobile home parks.**

(a) **Recreation facilities.** A centrally located recreation area for the use of mobile home park with more than ten (10) mobile spaces. Recreation and open space shall be at least 500 square feet per mobile space. This facility(s) may be constructed in phases correlated with phased construction of the park. Such recreation land shall be well-drained and usable for recreation, as well as maintained in a safe and attractive manner.

(b) In mobile home parks of fifty (50) or more spaces, fire hydrants shall be located so no mobile home space is more than 500 feet from a fire hydrant, as measured along the street.

(18) **Skirting required.** Within sixty (60) days of siting a mobile home park, a skirting material compatible with the home's exterior siding shall be securely fastened around the structure from the bottom of the home to the ground. (Ord. #1-91, June 1991, as amended by Ord. #1-98, Jan. 1998)

14-204. **Regulating travel trailers and travel trailer parks.**

(1) It shall be unlawful for any travel trailer to be occupied or to obtain services outside of any properly designated travel trailer park. This provision shall not apply to the storage of travel trailers provided said trailer unit is neither temporarily or permanently occupied as a dwelling unit while within the city limits.

(2) **Permit for travel trailer park.** No place or site within said city shall be established or maintained by any person, group of persons, or
corporation as a travel park unless he holds a valid permit issued by the city building inspector in the name of such person or persons for the specific travel trailer park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

3. Inspections by city building inspector and county health officer. The city building inspector and/or county health officer is hereby authorized and directed to make inspections to determine the condition of travel trailer parks in order that he may perform his duty of safeguarding the health and safety of the occupants of travel trailer parks and of the general public. The building inspector or county health officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

4. Length of occupancy. Travel trailer spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer park not more than thirty (30) days.

5. Minimum size of travel trailer space. Each travel trailer space shall have a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.


14-205. Permits. The following requirements for permits shall apply to any mobile home park, individual mobile home, and travel trailer park within the corporate limits.

1. Mobile home parks. It shall be unlawful for any person or persons to maintain or operate, within the corporate limits of said city, any mobile home park unless such person or persons shall first obtain a permit therefor.

2. Individual mobile homes. It shall be unlawful for any person to maintain an individual mobile home as a dwelling unless a permit has been obtained therefor. It shall be the responsibility of the owner of the mobile home to secure the permit.

3. Travel trailer park. It shall be unlawful for any person or persons to maintain or operate, within the corporate limits of said city, any travel trailer park unless such person or persons shall first obtain a permit therefor. (Ord. #1-91, June 1991)

14-206. Fees for permits. The application fee and annual permit fee for mobile homes, mobile home parks, and travel trailer parks, shall be:
Mobile Home Park Fee
1 to 10 spaces $20.00
11 to 50 spaces $50.00
50 spaces or more $50.00 plus $1.00/per space for each space over 50 spaces

However, no such fee shall be levied upon any mobile home not within a mobile home park.

The annual permit fee becomes effective on January 1 of the year following the year in which the initial permit is issued. (Ord. #1-91, June 1991, as replaced by Ord. #1-98, Jan. 1998)

14-207. Application for permit. (1) Mobile home parks. Applications for a mobile home park shall be filed with and issued by the city building inspector, subject to the planning commission's approval of the mobile home park plan. Applications shall be in writing and signed by the applicant, and shall be accompanied with an approved plan and location of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements.

(a) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one inch;
(b) Name and address of owner of record;
(c) Proposed name of park;
(d) North point and graphic scale and date;
(e) Vicinity map showing location and acreage of mobile home park;
(f) Exact boundary lines of the tract by bearing and distance;
(g) Names of owners of record of immediately adjacent land;
(h) Existing streets, utilities, easements, and water courses on and adjacent to the tract;
(i) Proposed design including streets, proposed street names, buffer strip plan, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, other structures, and any land to be used for purposes other than mobile home spaces;
(j) Provisions for water supply, sewerage and drainage;
(k) Such information as may be required by said city to enable it to determine if the proposed park will comply with legal requirements; and
(l) The applications and all accompanying plans and specifications shall be filed in triplicate.

(2) Certificates that shall be required are:
(a) Owner's certification;
(b) Planning commission's approval signed by the secretary; and
(c) Any other certificate deemed necessary by the planning commission.

(3) **Travel trailer parks.** Applications for travel trailer parks shall meet the same requirements as contained in § 14-201. (Ord. #1-91, June 1991)

### 14-208. **Enforcement.** It shall be the duty of the county health officer and city building inspector to enforce provisions of this chapter. Where septic tanks are to be used, the planning commission shall require certificates of approval by the county health officer. (Ord. #1-91, June 1991)

### 14-209. **Appeals.**  
1. **Board of Appeals.** The Niota Planning Commission shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

   Any party aggrieved because of an alleged error in any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter, may appeal for and receive a hearing by the Niota Planning Commission (advised by the city attorney) for an interpretation of pertinent chapter provisions.

   In exercising this power of interpretation of this chapter, the Niota Planning Commission, with advice from the city attorney, may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building inspector.

2. **Appeals from board of appeals.** Any person or persons, or any board, taxpayer, department or bureau of the city aggrieved by any decision of the Niota Planning Commission may seek review by a court of record of such decision in the manner provided by the laws of the State of Tennessee. (Ord. #1-91, June 1991)

### 14-210. **Violation and penalty.** Any person or corporation who violates the provisions of this chapter, or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirements specified by the city building inspector or county health officer, after receipt of thirty (30) days written notice of such requirements, shall be punishable under the general penalty clause of this code. (Ord. #1-91, June 1991)
CHAPTER 3

FAIR HOUSING ORDINANCE

SECTION
14-301. Policy.
14-302. Definitions.
14-303. Unlawful practice.
14-304. Discrimination in the sale or rental of housing.
14-305. Discrimination in the financing of housing.
14-306. Discrimination in the provision of brokerage services.
14-308. Enforcement by private persons.

14-301. Policy. It is the policy of the City of Niota to provide, within constitutional limitations, for fair housing throughout the City of Niota. (as added by Ord. #1-96, Feb. 1996)

14-302. Definitions. (1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building structure, or portion thereof.
(2) "Family" includes a single individual.
(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and judiciaries.
(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.
(5) "Discriminatory housing practice" means an act that is unlawful under §§ 14-304, 14-305, or 14-306. (as added by Ord. #1-96, Feb. 1996)

14-303. Unlawful practice. Subject to the provisions of subsection (2) and § 14-307, the prohibitions against discrimination in the sale or rental of housing set forth in § 14-304 shall apply to:
(1) All dwellings except as exempted by subsection (2).
(2) Nothing in § 14-304 shall apply to:
   (a) Any single-family house sold or rented by an owner: Provided that such private individual owner does not own more than three such single-family houses at any one time. Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the
exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time; Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented.

(i) Without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman or person and

(ii) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 14-304(3) of this ordinance, but nothing in this provision shall prohibit the use of attorneys, escrow agents abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(3) For the purposes of this subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:

(a) He has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein or

(b) He has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(c) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families. (as added by Ord. #1-96, Feb. 1996)

14-304. Discrimination in the sale or rental of housing. As made applicable by § 14-303 and except as exempted by §§ 14-303(2) and 14-307, it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make available or deny,
a dwelling to any person because of race, color, religion, sex, national origin, familial status or handicap.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status or handicap.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status or handicap, or an intention to make any such preference, limitation or discrimination.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or person of a particular race, color, religion, sex, national origin, familial status or handicap.

(6) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by that person if such modifications are necessary to afford that person full enjoyment of the premises.

(7) To refuse to make reasonable accommodations in rules, policies, practices, or service, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (as added by Ord. #1-96, Feb. 1996)

14-305. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status or handicap of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 14-303(2). (as added by Ord. #1-96, Feb. 1996)
14-306. **Discrimination in the provision of brokerage services.** It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms of conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial status or handicap. (as added by Ord. #1-96, Feb. 1996)

14-307. **Exemption.** Nothing in this ordinance shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwelling which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status or handicap. Nor shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (as added by Ord. #1-96, Feb. 1996)

14-308. **Enforcement by private persons.** The rights granted by §§ 14-303, 14-304, 14-305, and 14-306 may be enforced by civil actions in state or local courts of general jurisdiction. (as added by Ord. #1-96, Feb. 1996)
CHAPTER 4
FLOOD DAMAGE PREVENTION

SECTION
14-401. Statutory authorization, findings of fact, purpose and objectives.
14-402. Definitions.
14-403. General provisions.
14-404. Administration.
14-407. Legal status provisions.

14-401. Statutory authorization, findings of fact, purpose and objectives. (1)Statutory authorization. The Legislature of the State of Tennessee has in Private Acts of 1919, chapter 48 delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Niota, Tennessee, mayor and its legislative body do ordain as follows:

(2) Findings of fact. (a) The City of Niota, Tennessee, mayor and its legislative body wishes to establish eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

(b) Areas of the City of Niota, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) 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, floodproofed, or otherwise unprotected from flood damages.

(3) 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:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
(d) Control filling, grading, dredging and other development which may increase flood damage or erosion;
(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

4. Objectives. The objectives of this chapter are:
   (a) To protect human life, health, safety and property;
   (b) To minimize expenditure of public funds for costly flood control projects;
   (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
   (d) To minimize prolonged business interruptions;
   (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood prone areas;
   (f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas to minimize blight in flood areas;
   (g) To ensure that potential homebuyers are notified that property is in a flood prone area;
   (h) To establish eligibility for participation in the NFIP. (as added by Ord. #9-12-11, June 2012)

14-402. 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. "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this chapter, shall conform to the following:
   (a) Accessory structures shall only be used for parking of vehicles and storage.
   (b) Accessory structures shall be designed to have low flood damage potential.
   (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
   (d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1'-3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard" see "Special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Building" see "Structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(13) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.
(14) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(15) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing structures" see "Existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow in inland or tidal waters.
(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(20) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").
(26) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(28) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(32) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to
water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(35) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(36) "Historic structure" means any structure that is:
   (a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
   (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
   (c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
   (d) Individually listed on the City of Niota, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
       (i) By the approved Tennessee program as determined by the Secretary of the interior; or
       (ii) Directly by the Secretary of the Interior.

(37) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(38) "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.

(39) "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.

(40) 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."
"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.

"Map" means the Flood Hazard Boundary Map (FHBMM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

"Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

"National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

"New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the ordinance comprising this chapter or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

"North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

"100-year flood" see "base flood."

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

"Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

"Recreational vehicle" means a vehicle which is:
(a) Built on a single chassis;
(b) Four hundred (400) square feet or less then measured at the largest horizontal projection;
(c) Designed to be self-propelled or permanently towable by a light duty truck;
(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "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.

(53) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(54) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed rate making 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.

(55) "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.

(56) "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.

(57) "State coordinating agency" the Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(58) "Structure" for purposes of this chapter, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(59) "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.

(60) (a) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure of the structure should be:

(i) The appraised value of the structure prior to the start of the initial improvement; or

(ii) In the case of substantial damage, the value of the structure prior to the damage occurring.

(b) The term does not, however, include either:

(i) 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

(ii) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(61) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(62) "Variance" is a grant of relief from the requirements of this chapter.

(63) "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.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (as added by Ord. #9-12-11, June 2012)

14-403. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of the City of Niota, Tennessee.
(2) Basis for establishing the areas of special flood hazard. The Areas of Special Flood Hazard in the City of Niota, Tennessee, as identified by FEMA, and in its September 28, 2007, and revised May 4, 2009, Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRM), McMinn County 47107C Community ID 470312 and Panel Numbers 0114.0118.0119.0202, dated September 28, 2007, along with 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 man-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 Niota, 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.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Niota, Tennessee
from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #9-12-11, June 2012)

14-404. Administration. (1) Designation of ordinance administrator. The city recorder is hereby appointed as the administrator to implement the provisions of the ordinance comprising this chapter.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(iii) A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-405(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocate as a result of proposed development.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the
direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review 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.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-404(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-404(2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-404(2).
(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Niota, Tennessee FIRM meet the requirements of this chapter.

(k) Maintain all records pertaining to the provisions of this chapter 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. (as added by Ord. #9-12-11, June 2012)

14-405. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements 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;

(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 non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-405(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-405(1), are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood
(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-404(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(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 finished grade;
(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-405(2).
(d) Standards for manufactured homes and recreational vehicles. (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.
   (ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
      (A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or
      (B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-402).
   (iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-405(1) and (2).
   (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 in an identified special flood hazard area must either:
      (A) Be on the site for fewer than one hundred eighty (180) 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); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding:

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 14-405(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-403(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide
supporting technical data, using the same methodologies as in the effective flood insurance study for the City of Niota, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-403(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 construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principals.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-403(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-405(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-402). All applicable data including elevations or
floodproofing certifications shall be recorded as set forth in § 14-404(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-405(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Niota, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of the buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2). Within approximate A Zones, require that those subsections of § 14-405(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-403(2), are areas designated as shall 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, in addition to those set forth in § 14-405(1) and (2), 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 one foot (1') above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-405(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM,
with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-405(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-403(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-404 and 14-405 shall apply.

(8) Standards for unmapped streams. Located within the City of Niota, 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) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-404 and 14-405. (as added by Ord. #9-12-11, June 2012)

14-406. Variance procedures. (1) Board of floodplain review.

(a) Creation and appointment. A board of floodplain review is hereby established which shall consist of three (3) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years, respectively. Vacancies shall be filled for any unexpected term by the chief executive officer.
(b) Procedure. Meetings of the board of floodplain review shall be held at such times, as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the legislative body.

(c) Appeals; how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty dollars ($50.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than thirty (30) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Niota, Tennessee Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter to preserve the historic character and design of the structure.
(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter and:

1. The danger that materials may be swept onto other property to the injury of others;
2. The danger to life and property due to flooding or erosion;
3. The susceptibility of the proposed facility and its contents to flood damage;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
8. The safety of access to the property in times of flood for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this chapter, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-406(1).
(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (as added by Ord. #9-12-11, June 2012)

14-407. 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 the City of Niota, Tennessee, the most restrictive shall in all cases apply.

(2) 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. (as added by Ord. #9-12-11, June 2012)
TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING

CHAPTER
1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. GOLF CARTS AND LOW SPEED VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION
15-102. Driving on streets closed for repairs, etc.
15-103. One-way streets.
15-104. Unlaned streets.
15-105. LANED STREETS.
15-106. Yellow lines.
15-107. Miscellaneous traffic-control signs, etc.
15-108. General requirements for traffic-control signs, etc.
15-109. Unauthorized traffic-control signs, etc.
15-110. Presumption with respect to traffic-control signs, etc.
15-111. School safety patrols.

1Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

2State 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.
15-112. Driving through funerals or other processions.
15-114. Riding on outside of vehicles.
15-118. Vehicles and operators to be licensed.
15-120. Damaging pavements.
15-121. Bicycle riders, etc.
15-122. Go-carts.
15-123. Compliance with financial responsibility law required.
15-126. Adoption of state statutes and regulations.

15-101. **Motor vehicle requirements.** It shall be unlawful for any
person to operate any motor vehicle within the corporate limits unless such
vehicle is equipped with properly operating muffler, lights, brakes, horn, and
such other equipment as is prescribed and required by Tennessee Code
Annotated, title 55, chapter 9. (1978 Code, § 9-101, as replaced by Ord. #3-09,
May 2009)

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.
(1978 Code, § 9-106, as replaced by Ord. #3-09, May 2009)

15-103. **One-way streets.** On any street for one-way traffic with posted
signs indicating the authorized direction of travel at all intersections offering
access thereto, no person shall operate any vehicle except in the indicated
direction. (1978 Code, § 9-109, as replaced by Ord. #3-09, May 2009)

15-104. **Unlaned streets.** (1) Upon all unlaned streets of sufficient
width, a vehicle shall be driven upon the right half of the street except:
   (a) When lawfully overtaking and passing another vehicle
       proceeding in the same direction.
   (b) When the right half of a roadway is closed to traffic while
       under construction or repair.
   (c) Upon a roadway designated and signposted by the city for
       one-way traffic.
(2) All vehicles proceeding at less than the normal speed of traffic at
the time and place and under the conditions then existing shall be driven as
close as practicable to the right hand curb or edge of the roadway, except when
overtaking and passing another vehicle proceeding in the same direction or
when preparing for a left turn. (1978 Code, § 9-110, as replaced by Ord. #3-09,
May 2009)

15-105. **Laned streets.** On streets marked with traffic lanes, it shall be
unlawful for the operator of any vehicle to fail or refuse to keep his vehicle
within the boundaries of the proper lane for his direction of travel except when
lawfully passing another vehicle or preparatory to making a lawful turning
movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall
be the right hand lane unless otherwise clearly marked. On streets with four (4)
or more lanes, either of the right hand lanes shall be available for use except
that traffic moving at less than the normal rate of speed shall use the extreme
right hand lane. On one-way streets either lane may be lawfully used in the
absence of markings to the contrary. (1978 Code, § 9-111, as replaced by
Ord. #3-09, May 2009)

15-106. **Yellow lines.** On streets with a yellow line placed to the right
of any lane line or center line, such yellow line shall designate a no-passing
zone, and no operator shall drive his vehicle or any part thereof across or to the
left of such yellow line except when necessary to make a lawful left turn from
such street. (1978 Code, § 9-112, as replaced by Ord. #3-09, May 2009)

15-107. **Miscellaneous traffic-control signs, etc.**¹ It shall be unlawful
for any pedestrian or the operator of any vehicle to violate or fail to comply with
any traffic-control sign, signal, marking, or device placed or erected by the state
or the city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to
willfully violate or fail to comply with the reasonable directions of any police
officer. (1978 Code, § 9-113, as replaced by Ord. #3-09, May 2009)

15-108. **General requirements for traffic-control signs, etc.** All
traffic-control signs, signals, markings, and devices shall conform to the latest
revision of the Manual on Uniform Traffic Control Devices for Streets and
Highways, published by the U.S. Department of Transportation, Federal
Highway Administration, and shall, so far as practicable, be uniform as to type
and location throughout the city. This section shall not be construed as being

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¹Municipal code references
Stop signs, yield signs, flashing signals, pedestrian control signs,
traffic control signals generally: §§ 15-505--15-509.
mandatory but is merely directive. (1978 Code, § 9-114, as replaced by Ord. #3-09, May 2009)

15-109. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1978 Code, § 9-115, as replaced by Ord. #3-09, May 2009)

15-110. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper municipal authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1978 Code, § 9-116, as replaced by Ord. #3-09, May 2009)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1978 Code, § 9-117, as replaced by Ord. #3-09, May 2009)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1978 Code, § 9-118, as replaced by Ord. #3-09, May 2009)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1978 Code, § 9-120, as replaced by Ord. #3-09, May 2009)
15-114. **Riding on outside of vehicles.** It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1978 Code, § 9-121, as replaced by Ord. #3-09, May 2009)

15-115. **Backing vehicles.** The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1978 Code, § 9-122, as replaced by Ord. #3-09, May 2009)

15-116. **Projections from the rear of vehicles.** Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve inches (12") square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200’) from the rear of such vehicle. (1978 Code, § 9-123, as replaced by Ord. #3-09, May 2009)

15-117. **Causing unnecessary noise.** It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1978 Code, § 9-124, as replaced by Ord. #3-09, May 2009)

15-118. **Vehicles and operators to be licensed.** It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1978 Code, § 9-125, as replaced by Ord. #3-09, May 2009)

15-119. **Passing.** Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.
The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right. When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1978 Code, § 9-126, as replaced by Ord. #3-09, May 2009)

15-120. **Damaging pavements.** No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1978 Code, § 9-119, as replaced by Ord. #3-09, May 2009)

15-121. **Bicycle riders, etc.** Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

No person under the age of sixteen (16) years shall operate any motorcycle or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.
Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1978 Code, § 9-127, as replaced by Ord. #3-09, May 2009)

15-122. Go-carts. The use of go-carts shall be prohibited on public streets and alleys. (1978 Code, § 9-128, as replaced by Ord. #3-09, May 2009)

15-123. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

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

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

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

(4) It is a civil offense to fail to provide evidence of financial
responsibility pursuant to this section. Any violation of this section is
punishable by a civil penalty of up to fifty dollars ($50.00).

(5) It is a civil offense imposed by this section shall be in addition to
any other penalty imposed under this code of ordinances.

(6) On or before the court date, the person so charged may submit
evidence of compliance with this section at the time of the violation. If the court
is satisfied that compliance was in effect at the time of the violation, the charge
of failure to provide evidence of financial responsibility may be dismissed. (as
added by Ord. #3-09, May 2009)

15-124. Use of safety belts in passenger vehicles. The provisions of
Tennessee Code Annotated, § 55-9-603 are hereby adopted by reference and
included herein as if set forth in full and declared to be an offense against the
City of Niota also. (as added by Ord. #3-09, May 2009)

15-125. Child passenger restraint systems. The provisions of
Tennessee Code Annotated, § 55-9-602 are hereby adopted by reference and
included herein as if set forth in full and declared to be an offense against the
City of Niota also. (as added by Ord. #3-09, May 2009)

15-126. Adoption of state statutes and regulations. Notwithstanding
any existing city ordinances to the contrary, all violations of the state
regulations for the operation of vehicles committed within the corporate limits
of the municipality and which are defined by state law are hereby designated
and declared to be offenses against the City of Niota also. This provision shall
not apply to any offense in which the state courts have exclusive jurisdiction. (as
added by Ord. #3-09, May 2009)

15-127. Engine compression braking devices regulated. (1) All
truck tractor and semi-trailers operating within the City of Niota shall conform
to the visual exhaust system requirements, 40 CFR 202.22 of the Interstate
Motor Carriers Noise Emission Standards.

(2) A motor vehicle does not conform to the visual exhaust system
inspection requirements referenced in subsection (1) of this section if inspection
of the exhaust system of the motor carrier vehicle discloses that the system:

(a) Has a defect that adversely affects sound reduction, such as
gas leaks or alteration or deterioration of muffler elements. (Small traces
of soot on flexible exhaust pipe sections shall not constitute a violation.);

(b) Is not equipped with either a muffler or noise dissipative
device, such as a turbocharger (supercharger driven by gases); or
(c) Is equipped with a cut out, bypass, or similar device, unless such device is designed as an exhaust gas driven cargo unloading system.

(3) Violations of this section shall subject the offender to a fine of fifty dollars ($50.00) per offense.

(4) This section shall be supplemental to other noise control ordinances and regulations of the city, and shall be effective upon its final passage, the public welfare requiring it. (as added by Ord. #15-707, Feb. 2007)
CHAPTER 2

EMERGENCY VEHICLES

SECTION
15-201. Authorized emergency vehicles defined.
15-203. Following emergency vehicles.
15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1978 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.1 (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1978 Code, § 9-103)

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1Municipal code reference
Operation of other vehicle upon the approach of emergency vehicles: § 15-501.
15-203. **Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1978 Code, § 9-104)

15-204. **Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1978 Code, § 9-105)
CHAPTER 3

SPEED LIMITS

SECTION
15-301. In general.
15-302. At intersections.
15-304. In congested areas.

15-301. **In general.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty-five (35) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1978 Code, § 9-201)

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. (1978 Code, § 9-202)

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. (1978 Code, § 9-203)

15-304. **In congested areas.** It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality. (1978 Code, § 9-204)
CHAPTER 4

TURNING MOVEMENTS

SECTION
15-402. Right turns.
15-403. Left turns on two-way roadways.
15-404. Left turns on other than two-way roadways.

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 (1978 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1978 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1978 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1978 Code, § 9-304)


¹State law reference
Tennessee Code Annotated, § 55-8-143.
CHAPTER 5

STOPPING AND YIELDING

SECTION
15-502. When emerging from alleys, etc.
15-503. To prevent obstructing an intersection.
15-504. At railroad crossings.
15-505. At "stop" signs.
15-506. At "yield" signs.
15-507. At traffic-control signals generally.
15-508. At flashing traffic-control signals.
15-509. At pedestrian-control signals.
15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles. Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1978 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1978 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1978 Code, § 9-403)

1 Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.
15-504. **At railroad crossings.** Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

1. A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
2. A crossing gate is lowered or a human flagman signals the approach of a railroad train.
3. A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.
4. An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1978 Code, § 9-404)

15-505. **At "stop" signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection and shall remain standing until he can proceed through the intersection in safety. (1978 Code, § 9-405)

15-506. **At "yield" signs.** The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1978 Code, § 9-406)

15-507. **At traffic-control signals generally.** Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

1. **Green alone, or "Go":**
   a. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
   b. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.
2. **Steady yellow alone, or "Caution":**
   a. Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.
   b. Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.
(3) **Steady red alone, or "Stop":**
   (a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.
   (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) **Steady red with green arrow:**
   (a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.
   (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1978 Code, § 9-407)

15-508. **At flashing traffic-control signals.** (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:
   (a) **Flashing red (stop signal).** When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
   (b) **Flashing yellow (caution signal).** When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1978 Code, § 9-408)

15-509. **At pedestrian-control signals.** Wherever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:

(1) **Walk.** Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.
(2) **Wait or Don't Walk.** No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1978 Code, § 9-409)

**15-510. Stops to be signaled.** No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1978 Code, § 9-410)

¹State 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 city shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

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. (1978 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1978 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1978 Code, § 9-503)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

(1) On a sidewalk;
(2) In front of a public or private driveway;
(3) Within an intersection or within fifteen (15) feet thereof;
Within fifteen (15) feet of a fire hydrant;
Within a pedestrian crosswalk;
Within fifty (50) feet of a railroad crossing;
Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance;
Alongside or opposite any street excavation or obstruction when other traffic would be obstructed;
On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
Upon any bridge;
Alongside any curb painted yellow or red by the city. (1978 Code, § 9-504)

15-605. **Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1978 Code, § 9-505)

15-606. **Presumption with respect to illegal parking.** When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1978 Code, § 9-506)
CHAPTER 7
ENFORCEMENT

SECTION
15-701. Issuance of traffic citations.
15-702. Failure to obey citation.
15-703. Illegal parking.
15-704. Impoundment of vehicles.
15-705. Disposal of "abandoned motor vehicles."
15-706. Violation and penalty.

15-701. **Issuance of traffic citations.** 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. (1978 Code, § 9-601)

15-702. **Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1978 Code, § 9-602)

15-703. **Illegal parking.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1978 Code, § 9-603, modified)

15-704. **Impoundment of vehicles.** Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any

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¹State law reference
vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars ($5.00) and a storage costs of one dollar ($1.00) for each twenty-four (24) hour period or fraction thereof the vehicle is stored. (1978 Code, § 9-604)


15-706. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars ($50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking meter violation, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of one dollar ($1.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant for his arrest is issued, his fine shall be three dollars ($3.00).

(b) Other parking violations excluding handicapped parking. For other parking violations, excluding handicapped parking violations, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars ($3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant is issued for his arrest, his civil penalty shall be five dollars ($5.00).

(c) Handicapped parking. Parking in a handicapped parking space shall be punished by a civil penalty of one hundred dollars ($100.00).
CHAPTER 8

GOLF CARTS AND LOW SPEED VEHICLES

SECTION

15-801. Findings; definition.
15-802. Registration/requirements.
15-803. Operation regulations.
15-804. Liability.
15-805. Penalties.

15-801. Findings; definition. (1) The city commission finds that all streets located within the territorial boundaries of the City of Niota and under its jurisdiction are designed and constructed so as to safely permit their use by operators of motorized carts and low speed motor vehicle (LSMV), except as stated elsewhere in this chapter.

(2) "Motorized carts" are defined as those electric and gasoline-powered pleasure carts, commonly called golf carts, which do not exceed twenty miles per hour (20 mph).

(3) "Low Speed Motor Vehicles (LSMVs)" are defined as those four-wheeled, ATVs and recreational vehicles whose top speed exceeds twenty miles per hour (20 mph) and which possess some mechanical, electrical or similar system other than merely decreased pressure on the accelerator wherein the vehicle's top speed can be prohibited from exceeding twenty miles per hour (20 mph) by the operator. (as added by Ord. #4-08-13, April 2013)

15-802. Registration/requirements. (1) Motorized carts/recreational vehicles. It shall be the duty of every owner of a motorized cart that is operated over public streets and those areas accessible by the public to register the cart with the City of Niota within ten (10) business days of the date of purchase. A numerical decal shall be issued upon registration; and a record of each motorized cart number, along with the name and address of the owner, year, make, serial number and color of cart shall be maintained by the police department. The decal must be affixed to the cart in such a manner as to be fully visible at all times. The registration fee for motorized carts owned by city residents shall be twenty-five dollars ($25.00), and the registration shall be effective until July 1 each year or until such time cart is sold or otherwise disposed of. An annual registration/user fee of thirty-five dollars ($35.00) shall be charged to nonresidents of the city. The nonresident fee shall be effective until July 1 each year or until such time as the cart is sold or otherwise disposed of.

(2) Low Speed Motor Vehicle (LSMV). No LSMV shall be operated on the public streets located within the territorial boundaries of the City of Niota unless it is legally registered with the city.
Every cart shall at all times be equipped with an exhaust system in good working order and in constant operation, meeting the following specifications:

(a) The exhaust system shall include the piping leading from the flange of the exhaust manifold to and including the muffler and exhaust pipes or include any and all parts specified by the manufacturer.

(b) The exhaust system and its elements shall be securely fastened, including the consideration of missing or broken brackets or hangers.

(c) The engine and powered mechanism of every cart shall be so equipped, adjusted and tuned as to prevent the escape of excessive smoke or fumes.

(4) It shall be unlawful for the owner of any cart to operate or permit the operation of such cart on which any device controlling or abating atmospheric emissions, which is placed on a cart by the manufacturer, to render the device unserviceable by removal, alteration or which interferes with its operation.

(5) Rental carts. Cart dealers and distributors, as well as other commercial establishments, may rent carts to the public for use on the public streets and those areas accessible by the public of the city. Each such establishment renting carts shall be required to register each such rental cart in accordance with subsections (1) and (2) of this section and shall maintain a written record of each person who rents each cart. Renters shall be required to furnish positive identification, shall be provided a copy of this chapter to read, and must be at least sixteen (16) years of age and possess a valid drivers license. The registration fee and regulations shall be the same as those in subsections (1) and (2).

(6) Age, number of registrants limited. Only those persons eighteen (18) years of age or older may register a motorized cart. Cart registration may be in one (1) person's name only, and the registration form must be signed by that person. A copy of a valid license is necessary and names of any other potential drivers in the household. (as added by Ord. #4-08-13, April 2013)

15-803. Operation regulations. (1) Those persons who are sixteen (16) years of age and older may drive a motorized cart on the public streets and those areas accessible by the public of the city unless such person has had his or her license to operate a motor vehicle suspended or revoked by the state which issued said license in which case such person shall not be permitted to operate a motorized cart on the public streets and those areas accessible by the public of the city during the time of suspension or revocation.

(2) Those persons who are fifteen (15) years of age but not yet sixteen (16) years of age may drive a motorized cart on the public streets and those areas accessible by the public of the city. This person must have in his or her possession a valid learners permit issued by the State of Tennessee and be
accompanied in the front seat by a person at least eighteen (18) years of age who holds a valid driver's license.

(3) All operators shall abide by all traffic regulations applicable to vehicular traffic when using the public streets and those areas accessible by the public in the city.

(4) Motorized carts shall not be operated on sidewalks at any time.

(5) Motorized carts may be operated over those authorized public streets and those areas accessible by the public only during daylight hours unless such motorized carts are equipped with functional headlights and taillights.

(6) No motorized cart shall be permitted to operate over, along, or across Highway 11 except where cross streets are available.

(7) It shall be unlawful for the owner of any motorized cart or LSMV or any other person operating, employing, permitting the use of or otherwise directing the use of such motorized cart or LSMV to operate or permit the operator on any motorized cart or LSMV to drive over the public streets or those areas accessible by the public in the city in violation of this chapter.

(8) No LSMV shall be permitted to operate on any street of which the posted speed limit exceeds thirty-five miles per hour (35 mph).

(9) Any child thirteen (13) years and under is required to wear a protective helmet when riding as a passenger.

(10) ATV-DOT regulated helmet is required for all drivers and passengers. (as added by Ord. #4-08-13, April 2013)

15-804. Liability. Each person using a public street is liable for his or her own actions. Liability insurance coverage varies, and each person operating a golf cart on the public streets and those areas accessible by the public should verify their coverage. (as added by Ord. #4-08-13, April 2013)

15-805. Penalties. (1) Any person who violates the terms of this chapter shall be punished as provided in this section.

(2) Any violation of regulations set forth in this chapter shall be charged against the registered owner and driver of the motorized cart, and all fines and penalties shall be levied against the registered owner and driver of the motorized cart. All fines and penalties shall be set according to city code for city ordinance violations and applicable court cost.

(3) All motorized carts and LSMVs shall obey all state and local motor vehicle laws. Any violation of state or local motor vehicle laws shall be charged against the operator of the motorized cart or LSMV. All fines and penalties shall be levied according to state and local law.

(4) Any violation of this chapter can result in revocation of permit. (as added by Ord. #4-08-13, April 2013)
TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER
1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION
16-101. Obstructing streets, alleys, or sidewalks prohibited.
16-102. Trees projecting over streets, etc., regulated.
16-103. Trees, etc., obstructing view at intersections prohibited.
16-104. Projecting signs and awnings, etc., restricted.
16-105. Banners and signs across streets and alleys restricted.
16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
16-107. Littering streets, alleys, or sidewalks prohibited.
16-108. Obstruction of drainage ditches.
16-109. Abutting occupants to keep sidewalks clean, etc.
16-110. Parades, etc., regulated.
16-111. Operation of trains at crossings regulated.
16-112. Animals and vehicles on sidewalks.
16-113. Fires in streets, etc.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1978 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1978 Code, § 12-102)

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on

¹Municipal code reference
Related motor vehicle and traffic regulations: title 15.
his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1978 Code, § 12-103)

16-104. **Projecting signs and awnings, etc., restricted.** Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code. (1978 Code, § 12-104)

16-105. **Banners and signs across streets and alleys restricted.** It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the governing body after a finding that no hazard will be created by such banner or sign. (1978 Code, § 12-105)

16-106. **Gates or doors opening over streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1978 Code, § 12-106)

16-107. **Littering streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1978 Code, § 12-107)

16-108. **Obstruction of drainage ditches.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1978 Code, § 12-108)

16-109. **Abutting occupants to keep sidewalks clean, etc.** The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1978 Code, § 12-109)

16-110. **Parades, etc., regulated.** It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be
unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1978 Code, § 12-110)

16-111. **Operation of trains at crossings regulated.** No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. 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 five (5) consecutive minutes. (1978 Code, § 12-111, as amended by Ord. #32, April 1982, modified)

16-112. **Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1978 Code, § 12-112)

16-113. **Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1978 Code, § 12-113)
CHAPTER 2

EXCAVATIONS AND CUTS

SECTION
16-201. Permit required.
16-203. Fee.
16-204. Deposit or bond.
16-205. Manner of excavating--barricades and lights--temporary sidewalks.
16-206. Restoration of streets, etc.
16-207. Insurance.
16-208. Time limits.
16-209. Supervision.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permits; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1978 Code, § 12-201)

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

1State law reference
This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).
to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1978 Code, § 12-202)

16-203. Fee. The fee for such permits shall be two dollars ($2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents ($.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars ($100.00) for any permit. (1978 Code, § 12-203)

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

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1978 Code, § 12-204)

16-205. Manner of excavating—barricades and lights—temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1978 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation,
association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1978 Code, § 12-206)

16-207. **Insurance.** In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than $130,000 for each person and $350,000 for each accident, and for property damages not less than $50,000 for any one (1) accident. (1978 Code, § 12-207)

16-208. **Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1978 Code, § 12-208)

16-209. **Supervision.** The recorder shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1978 Code, § 12-209)

16-210. **Driveway curb cuts.** No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge and when two (2) or more adjoining driveways are
provided for the same property a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1978 Code, § 12-210)
TITLE 17

REFUSE AND TRASH DISPOSAL

CHAPTER 1

REFUSE

SECTION
17-102. Premises to be kept clean.
17-103. Storage.
17-104. Location of containers.
17-105. Disturbing containers.
17-106. Collection.
17-110. Dumping permitted in designated places only.
17-111. Violation and penalty.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1978 Code, § 8-201)

17-102. Premises to be kept clean. All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1978 Code, § 8-202)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this

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maximum capacity shall not apply to larger containers which the city handles mechanically. Furthermore, except for containers which the city handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection.

Additionally, each owner, occupant, or other responsible person using or occupying any building or other premises within this city where refuse accumulates or is likely to accumulate, shall place all refuse into plastic garbage bags before depositing such refuse into containers for collection. The garbage bags shall be of such strength so as not to tear or puncture once the refuse is placed inside. The garbage bags shall be a minimum size of four (4) gallons. (1978 Code, § 8-203, as amended by Ord. #04-01, April 2001)

17-104. Location of containers. Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the municipal refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1978 Code, § 8-204)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1978 Code, § 8-205)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the governing body shall designate. Collections shall be made regularly in accordance with an announced schedule. (1978 Code, § 8-206)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection
vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1978 Code, § 8-207)

17-108. **Disposal.** The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the governing body is expressly prohibited. (1978 Code, § 8-208)

17-109. **Solid waste service charge.** There is hereby imposed for the collection of solid waste and for the improvement of the general public health and environment a service charge for each dwelling unit and for each commercial and industrial establishment.

**RESIDENTIAL:** The service charge for collection of residential solid waste shall be in the amount of $2.50 per calendar month for one collection per week.

**COMMERCIAL:** The service charge for commercial establishments shall be in the amount of fifteen dollars ($15.00) per calendar month for one collection per week.

**INDUSTRIAL:** The service charge for industrial establishments shall be in the amount of twenty-five dollars ($25.00) per container per month for one collection per week. The rate for industrial collection is based upon a container size of four (4) cubic yards.

In all cases where containers are used, the City of Niota will not have the responsibility of collecting garbage placed outside the container.

Customers that have special waste or require other than the standard service should contact the superintendent for service and cost data in advance. (Ord. #2, Sept. 1992)

17-110. **Dumping permitted in designated places only.** It is unlawful for any non-resident to dispose of, or to cause to be disposed of, any garbage into a receptacle belonging to another unless so authorized by the owner of the receptacle. (Ord. #1-93, March 1993)

17-111. **Violation and penalty.** Any person violating any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined not exceeding five hundred dollars. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. #1-93, March 1993)
TITLE 18

WATER AND SEWERS

CHAPTER
1. WATER AND SEWERS.
2. GENERAL WASTEWATER REGULATIONS.
3. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
4. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

WATER AND SEWER SYSTEM ADMINISTRATION

SECTION
18-102. Definitions.
18-103. Obtaining service.
18-104. Application and contract for service.
18-105. Service charges for temporary service.
18-106. Connection charges.
18-108. Water and sewer main extension variances.
18-110. Meter tests.
18-111. Multiple services through a single meter.
18-113. Discontinuance or refusal of service.
18-114. Re-connection charge.
18-115. Termination of service by customer.
18-117. Inspections.
18-118. Customer's responsibility for system's property.
18-120. Supply and resale of water.
18-121. Unauthorized use of or interference with water supply.
18-122. Limited use of unmetered private fire line.
18-123. Damages to property due to water pressure.
18-124. Liability for cutoff failures.
18-125. Restricted use of water.

1Municipal code references
Refuse disposal: title 17.
18-101. **Application and scope.** The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1978 Code, § 13-101)

18-102. **Definitions.** (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the city under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water or sewer main of the city to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the city's water main to and including the meter and meter box.

(4) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.

(5) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(6) "Premises" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1978 Code, § 13-102)

18-103. **Obtaining service.** A formal application for either original or additional service must be made and be approved by the city before connection or meter installation orders will be issued and work performed. (1978 Code, § 13-103)

18-104. **Application and contract for service.** Each prospective customer desiring water and/or sewer service will be required to sign a standard form contract before service is supplied, provided that, any prospective customer desiring water and/or sewer service who is not the fee simple owner of the
premises or location where such services are desired shall be required to obtain
the signature of such fee simple owner to the application as guarantor for
payment of the bills and charges for such services before any services will or can
be supplied. If, for any reason, a customer, after signing a contract for service,
does not take such service by reason of not occupying the premises or otherwise,
he shall reimburse the city for the expense incurred by reason of its endeavor to
furnish such service.

The receipt of a prospective customer's application for service, regardless
of whether or not accompanied by a deposit, shall not obligate the city to render
the service applied for. If the service applied for cannot be supplied in
accordance with the provisions of this chapter and general practice, the liability
for the city to the applicant shall be limited to the return of any deposit made
by such applicant.

Any customer applying for a new service will be given a statement
showing the dates the service is due to be paid, the date of the cut-off of services
if the account is unpaid, the cost of the reconnection, and the fact that no further
notice will be given. The statement will also contain the requirement that the
customer must have his own cut-off valve on his side of the meter to shut off the
supply of water to his residence or business in case of emergencies, including
leaks; the amount of deposit required, the fact that three (3) days notice is
required before discontinuing his service, and the amount that is refundable to
them at discontinuance. (1978 Code, § 13-104, as amended by Ord. #___, April
198__, and Ord. #4-9-01, April 2001)

18-105. Service charges for temporary service. Customers requiring
temporary service shall pay all costs for connection and disconnection incidental
to the supplying and removing of service in addition to the regular charge for
water and/or sewer service. (1978 Code, § 13-105)

18-106. Connection charges. (1) Service lines will be laid by the city
and owned by the city from it's mains to the property lines, as determined by the
city. The city is responsible for the maintenance and upkeep of said service line
from the water or sewer main up to and including the meter and meter box, or
in the case of sewer service lines to the private property line. Service lines
beyond the meter box, or in the case of sewer, the property line, shall belong to
and are the responsibility of the customer.

(2) Water connection fee. The fee for connection to the city's water
service shall be set by the Niota Board of Commissioners, and may be changed
upward or downward according to changes in the cost of such connections to the
city.

(3) Sewer connection fee. The fee for connection to the city's sewer
service shall be set by the Niota Board of Commissioners, and may be changed
upward or downward according to changes in the cost of such connections to the
city.
18-4

(4) In a new subdivision where the developer/subdivider has installed water and/or sewer mains at his/her expense, and which have been accepted by the city for operation and maintenance, the connection fees shall be one hundred percent (100%) of the amounts shown in (2) and (3) above. (1978 Code, § 13-106, as replaced by Ord. #2-95, Dec. 1995, and Ord. #4-23-01, April 2001)

18-107. Water and sewer main extensions. 1 (1) Except as provided in § 18-108, the city's policy for extending water and sewer mains and financing is as follows:

(a) Within the City of Niota, the city has responsibility for providing water and sewer mains and service lines to the customers' property line. Provide, however, this does not preclude the board of commissioners from accepting proffers to share costs of said extensions, nor does this require the city to provide extensions within new subdivisions.

(b) Subdivisions. New subdivisions within or without the city which are to receive a city water and/or sewer service, shall have water/sewer mains constructed to plans and specifications approved by the Tennessee Department of Environment and Conservation and to sub-section (2) of this section. They may be accepted by the board of commissioners for ownership, question, and maintenance upon the inspection and recommendation of the water/sewer superintendent. The cost of said mains within a subdivision shall be at the sole expense of the developer.

(c) Outside the City of Niota, water main extensions and improvements. Where a developer, subdivider or private customer(s) outside the boundaries of the City of Niota request water service which requires either an extension of water mains or upgrading a water main, the city may participate on up to a 50-50 cost share basis, providing it has been prudently determined that this will become financially advantageous to the citizens of the City of Niota.

(d) Outside the City of Niota, sewer main extensions and improvements. Where a developer, subdivider or private customer(s) outside the boundaries of the City of Niota request sewer service which requires either an extension of sewer mains or upgrading a sewer main, the city may participate on up to a 50-50 cost share basis, providing it has been prudently determined that this will become financially advantageous to the citizens of the City of Niota.

(2) Water standards. Water main extensions shall conform to the following:

1Municipal code reference
Construction of building sewers: title 18, chapter 2.
(a) All materials and appurtenances shall be specified in the
design, and shall be suitable to accomplish the objective of the water
supply system, and shall conform to currently dated standards of the
American Society for Testing and Materials (ASTM), the American
Standards Association, (ASA), the American Water Works Association
(AWWA), the American National Standards Institute (ANSI), or the
General Services Administration (federal specifications) for the material
type and intended use. All installations shall be in accordance with
manufacturers' recommendations where not governed by these standards.
The following are applicable specifications:

(b) **Pipe and fittings.** Ductile iron pipe shall conform to
ANSI/AWWA Standard C151/A21.51-86. Ductile iron pipe fittings and
gray iron pipe fittings three inches through 48 inches shall conform to
ANSI/AWWA Standard C110/A21.10-87. Rubber gasket joints for gray
iron pipe or ductile iron pipe and fittings shall be as specified in
with threaded flanges shall conform to ANSI/AWWA Standard
C115/A21.15-88.

Reinforced concrete water pipe shall conform to ANSI/AWWA
Standards C300-89.C301-84, C302-87, and C303-87. Joints for reinforced
concrete pipe shall be as specified in AWWA Standard C301-84.

PVC pressure pipe and fittings four inches through 12 inches shall
conform to ANSI/AWWA Standard C900-89. PVC pipe sizes 14 inches
through 36 inches shall conform to AWWA Standard C905-88.
Installation shall be in accordance with ASTM D2321-89 and
ASTM D-2274-88. Polyethylene tubing for water mains or connections
one-half inch through three inches shall comply with AWWA Standard
C901-88 and conform to ASTM specification D-1248-89. Polybutylene
one-half inch through three inches shall conform to Standard C902-88
and ASTM specifications D-2581-91. Tubing dimensions and tolerances
shall conform to ASTM D-2737-89.

(c) **Valves.** Service line valves and fittings shall comply with
AWWA Standard C800-89.
Gate valves shall comply with ANSI/AWWA Standard C500-86 or
AWWA C509-87.
Butterfly valves shall be designed and manufactured in accordance
with ANSI/AWWA Standard C504-87.
Ball valves shall conform to AWWA Standard C507-85.
Check valves two inches through 24 inches shall comply with
ANSI/AWWA Standard C508-82.

(d) **Hydrants.** Dry barrel fire hydrants shall conform to AWWA
Standard C502-85. Wet barrel hydrants shall conform to AWWA
Standard C503-88.
Fire hydrant outlets shall be equipped with American National Fire House Connection Screw Threads (NST-NH).

Fire hydrants may be placed about 1,000 feet apart; no lot should be further than approximately 500 feet from a fire hydrant, based on road or street distances.

(e) **Testing.** Installation and testing of all new water mains and their appurtenances shall comply with AWWA Standard C600-87. Water mains shall be disinfected according to AWWA Standard C651-86. Wells shall be disinfected according to AWWA Standard C654-87.

(f) **Abbreviations and definitions.** (i) "AASHTO." American Association of State Highway and Transportation Officials, Room 341, National Press Building, Washington, D.C. 20045; (202) 624-5800.

(ii) "ANSI." American National Standards Institute, 11 West 42nd Street, 13th Floor, New York, N.Y. 10036; (212) 642-4900.


(iv) "AWWA." American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235; (303) 794-7711.

(g) **General design requirements.** The minimum pipe size shall be six inches (6") in diameter to the dead end of any line; loops and continuous lines are preferred. Provided that two inch (2") lines may be used to supply residential dwellings only for short distances (e.g. up to 600 feet) within fire hydrant coverage areas.

(3) **Sewer design standards.** The design shall be approved by the Department of Environment and Conservation and generally conform to the following standards:

(a) **Pipe placement.** (i) Maintenance personnel shall have access via easements to maintain the public system located outside the public right-of-way. The easement shall be wide enough to allow personnel and equipment access to maintain and perform general repair on all parts of the system. The minimum easement width shall be 10 feet. Pipes may be offset from the center of the easement. Easements of separate utilities may overlap.

(ii) Sewer pipes shall be protected from excessive bearing pressures by placing them outside the influence zone of building structures unless engineering calculations show the pipe material or soil condition to be adequate for the subjected load.

(iii) Precautions shall be taken when sewer pipes approach, cross, or run parallel to water pipes to avoid possible contamination of the water supply. A water pipe shall not pass through or come in contact with a sewer manhole. The water pipe shall be protected by one of the following:
(A) Providing a 10 foot horizontal separation between water pipes and the sewer:

(B) Placing water pipes 18 inches above the sewer and on a separate shelf; or

(C) Constructing both the water pipe and sewer with watertight joints and then pressure testing each to ensure water tightness.

(iv) Sewer pipes that cross surface waters shall be protected against damage and anchored to prevent movement. For aerial crossings, support shall be provided at all joints and precautions shall be taken against freezing. For underwater crossings, the top of the sewer shall be at least 1 foot below the natural bottom of the stream bed when the sewer is located in rock, 3 feet below the natural bottom of the stream bed when the sewer is located in other material, or below the channel pavement when stream channels are paved. The trench shall be backfilled with stone, coarse aggregate, washed gravel, or other materials that resist scour and prevent siltation.

(v) Sewer pipes shall be protected against freezing by providing adequate burial depths or other insulating arrangements. The top of the gravity or pressure sewer pipe shall be located below the lowest established frost depth.

(vi) To maintain joint integrity, pipe runs designed as curves between manholes shall follow manufacturers allowable deflections for the type and size of pipe.

(b) Installation. (i) Pipes or structures constructed on fill shall be stable and protected against settlement by compacting fill material to 95 percent of the modified Proctor (ASTM D 1557-78) maximum dry density.

(ii) Where steep ground makes possible the use of a reduced pipe size, the pipe size may be reduced at a manhole, but necessary hydraulic allowances shall be made for head loss of entry, increased velocity, and the effect of velocity retardation at the lower end where the flow moves across a flatter slope.

(iii) Sewers on 20 percent slopes or greater shall be anchored securely with concrete anchors or equal protection to prevent the pipe from creeping downhill.

(iv) Proper trenching, bedding, and backfill are required for the pipe performance. Bedding shall conform to the standards of section (a)(i). The width of the trench shall allow the pipe to be properly laid and jointed and to permit the backfill to be placed and compacted as needed. Backfill shall be of a suitable material removed from excavation except where other material is specified. Debris, frozen material, large stones, organic matter, or other
unstable materials shall not be used for backfill within 2 feet of the
top of the pipe.

(v) Inverted siphons shall be allowed when a standard
gravity line is not economically or physically feasible.

(c) Service/laterals. (i) Gravity laterals shall be sized and
sloped to carry the peak design flow from the building or buildings
served while meeting the minimum size and slope requirements of
locally adopted building codes.

(ii) Service lines serving more than one building shall be
located in an easement or in a common area. The service shall
separate before entering individual dwelling units.

(iii) Sewer laterals shall provide access for cleaning by
placing cleanouts on 4 inch and smaller lines not more than 75 feet
apart. For lateral lines greater than 4 inches, the requirements for
access points shall comply with the requirements for mains in
consideration of the fact that cleaning equipment is available to
service these larger sizes.

(iv) A positive direction of flow from sewer laterals shall
be maintained by means of a tee or wye connection to the main.

(d) Manholes/cleanouts. Access for inspection and maintenance
shall be provided through the use of manholes and cleanouts.

(i) A manhole or cleanout shall be placed at the terminal
end of a pipe main. A manhole shall be located on the main at
changes in pipe sizes, at changes in grade or alignment on runs not
designed as curves, at all sewer main intersections, and at
maximum distances of 800 feet measured along the pipe.

(ii) Manholes shall be constructed of the materials and to
the specifications outlined in section (f)(ii). Manholes shall be
watertight to prevent infiltration of groundwater. Manholes
located within flood zones, detention facilities, or areas of storm
water gutter, swale, or channel flow shall be equipped with a
watertight frame and cover.

(iii) Manholes shall be covered to convey the flow
adequately from influent to effluent lines. The drop between the
influent and effluent shall be adequate to convey the flow
hydraulically given the angle of deflection and the velocity of
influent and effluent. To ensure hydraulic efficiency, the angle
between influent and effluent pipes shall be not less than 90
degrees and the drop between inverts shall be not less than 0.1
foot. In designs where these requirements are not met, the
engineer shall submit calculations that show that the design has
no negative effects on the system due to the loss of energy in the
manhole.
(iv) Manholes shall be accessible. They shall be designed to be safe for maintenance personnel. Either manhole steps in accordance with ASTM C 478-88 or manhole ladders conforming to OSHA standards (1910.27, 1910.268) shall be provided.

(v) An inside or outside drop connection shall be provided when the vertical distance between pipe inverts exceeds 3 feet in the manhole. In addition, sewer laterals shall not connect directly to a manhole more than 3 feet above the lowest invert.

(vi) Manhole castings located in travelways shall be capable of withstanding traffic loads and shall meet the standards outlined in section (f). Manholes located in travelways shall be constructed flush with the finished surface so as not to pose a hazard to pedestrians or motorists.

(e) Testing. After backfilling, the mains of the gravity system shall be cleaned and tested to detect any defects or damage in materials or construction.

(i) Deflection tests shall be performed on all flexible pipe runs. If the deflection test is run using a rigid ball or mandrel, the object shall have a diameter equal to 95 percent of the inside diameter of the pipe. No pipe shall exceed a deflection of 5 percent.

(ii) A leakage test, either infiltration or exfiltration, shall be performed on all pipe runs. The leakage, outward or inward, shall not exceed 200 gallons per inch of pipe diameter per mile per day for any section of the system. An exfiltration or infiltration test shall be performed with a minimum positive head of 2 feet. The air test, if used, shall at minimum conform to the test procedure described in ASTM C-828-88.

(f) Material standards. (i) Pipe joints.

(A) Reinforced concrete pipe shall meet all requirements of ASTM C-76-89. Joints shall meet ASTM C443-85 requirements.

(B) PVC pipe and fittings shall conform to ASTM D-3034-89. Pipe shall be installed in accordance with ASTM D-2321-89. Pipe shall be free from defects, bubbles, and other imperfections in accordance with accepted commercial practice. Allowable minimum radii for bending PVC pipe shall be in conformance with accepted construction practice.

(C) Ductile iron and grey iron pipe, fittings, and joints shall be cement-lined and sealcoated and meet the requirements of (2)(a) above.

(D) Vitrified clay pipe shall meet ASTM C-700-89 and be installed in accordance with ASTM C-12-86. Vitrified clay joints shall conform to the requirements of ASTM C-425-88.
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(ii) Manholes. (A) Manholes shall be precast or cast-in-place concrete, brick, concrete block, or fiberglass.

(B) Precast reinforced concrete manholes shall conform to the requirements of ASTM C-478-88.

(C) Brick for manhole construction shall be dense, hard-burned clay brick conforming to ASTM C-62-89.

(D) Manhole frames and cover castings shall be iron conforming to ASTM A-48-83.

(iii) Installation and testing. (A) Bedding classes A, B, or C as described in ASTM C12-86 (ANSI A 106.2) shall be used for all rigid pipe. Bedding classes I, II, or III as described in ASTM D2321-89 (ANSI K65.171) shall be used for all flexible pipe, provided the proper strength pipe is used to support the anticipated load.

(B) Pressure systems shall be tested in accordance with AWWA C-600-87. (1978 Code, § 13-108, as replaced by Ord. #2-95, Dec. 1995, and amended by Ord. #4-23-01, April 2001)

18-108. Water and sewer main extension variances. Whenever the governing body is of the opinion that it is to the best interest of the city and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the governing body.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the city to make such extensions or to furnish service to any person or persons. At the completion of construction of any water or sewer main extension project, the developer or owner responsible for the construction shall notify the governing body that the work has been completed, and shall furnish two (2) sets of "as-built" plans. The water/sewer supervisor shall make a final inspection of the completed facilities. These shall be examined in detail for conformance to the work with approved plans and specifications, workmanship, operation of equipment, and other factors to the satisfaction of the inspector and the governing body. If deficiencies are found, the developer or owner shall be given in writing a summary of any deficiencies found and corrections required. (1978 Code, § 13-109, as amended by Ord. #4-9-01, April 2001)

18-109. Meters. All meters shall be installed, tested, repaired, and removed only by the city.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the city. No one shall install any pipe or other
device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter.

At the completion of construction of any water or sewer main extension project, the developer or owner responsible for the construction shall notify the governing body that the work has been completed, and shall furnish two (2) sets of "as-built" plans. The water/sewer supervisor shall make a final inspection of the completed facilities. These shall be examined in detail for conformance to the work with approved plans and specifications, workmanship, operation of equipment, and other factors to the satisfaction of the inspector and the governing body. If deficiencies are found, the developer or owner shall be given in writing a summary of any deficiencies found and corrections required. (1978 Code, § 13-110, as amended by Ord. #4-9-01, April 2001)

18-110. **Meter tests.** The city will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<table>
<thead>
<tr>
<th>Meter Size</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8&quot;, 3/4&quot;, 1&quot;, 2&quot;</td>
<td>2%</td>
</tr>
<tr>
<td>3&quot;</td>
<td>3%</td>
</tr>
<tr>
<td>4&quot;</td>
<td>4%</td>
</tr>
<tr>
<td>6&quot;</td>
<td>5%</td>
</tr>
</tbody>
</table>

The city will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay for the cost of the test as set by the board of commissioners by resolution.

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the city. (1978 Code, § 13-111)

18-111. **Multiple services through a single meter.** No customer shall supply water or sewer service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at
the city's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1978 Code, § 13-113)

18-112. Billing. Bills for residential water and sewer service will be rendered monthly except in the instance of a final bill which shall be rendered expediently when the customer's service is discontinued.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the municipality.

Both charges shall be collected as a unit; no city employee shall accept payment of water service charges from any customer without receiving at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined bill.

Water and sewer bills must be paid on or before the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before five (5) days after the discount date the service will be discontinued without any notice to the customer. The city shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the city if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available. (1978 Code, § 13-114, as amended by Ord. #2-93, March 1993, and Ord. #4-9-01, April 2001)

18-113. Discontinuance or refusal of service. The city shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

(1) These rules and regulations.
(2) The customer's application for service.
(3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer
or tenant is furnished services therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1978 Code, § 13-115)

18-114. Re-connection charge. Whenever service has been discontinued as provided for above, a re-connection charge of fifteen dollars ($15.00) shall be collected by the municipality before service is restored. (1978 Code, § 13-116, modified)

18-115. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the city 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; and the city shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the city should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of the ten (10) day period.

(2) During the ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the city to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1978 Code, § 13-117)

18-116. Access to customers' premises. The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1978 Code, § 13-118)
18-117. **Inspections.** The city shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by city ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (1978 Code, § 13-119)

18-118. **Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1978 Code, § 13-120)

18-119. **Customer's responsibility for violations.** Where the city furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1978 Code, § 13-121)

18-120. **Supply and resale of water.** All water shall be supplied within the city exclusively by the city and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the city. (1978 Code, § 13-122)

18-121. **Unauthorized use of or interference with water supply.** No person shall turn on or turn off any of the city's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city. (1978 Code, § 13-123)

18-122. **Limited use of unmetered private fire line.** Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the city.

All private fire hydrants shall be sealed by the city, and shall be inspected at regular intervals to see that they are in proper condition and that no water
is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the city a written notice of such occurrence. (1978 Code, § 13-124)

18-123. **Damages to property due to water pressure.** The city shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains. (1978 Code, § 13-125)

18-124. **Liability for cutoff failures.** The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

1. After receipt of at least ten (10) days' written notice to cut off water service, the city has failed to cut off such service.
2. The city has attempted to cut off a service but such service has not been completely cut off.
3. The city has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main.

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1978 Code, § 13-126)

18-125. **Restricted use of water.** In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1978 Code, § 13-127)

18-126. ** Interruption of service.** The city will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damage for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The city shall not be liable for any damage from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1978 Code, § 13-128)
18-127. **Schedule of rates.** All water and sewer service shall be furnished under such rate schedules as the city may from time to time adopt by appropriate ordinance or resolution.\(^1\) (1978 Code, § 13-112)

18-128. **Operating standards: notice to users.** (1) The city waterworks shall be operated and maintained to normally provide a minimum positive pressure of twenty (20) psi throughout the distribution system. No persons shall install or maintain a water service connection to any premises where a booster pump has been installed unless such booster pump is equipped with a low pressure cut-off mechanism designed to cut off the booster pump when pressure on the suction side of the pump drops to twenty (20) psi gauge.

   (2) The system will normally store 24 hours of distribution storage based on the average daily demand for the past twelve months.

   (3) The supervisor shall maintain an up-to-date map of the distribution system showing the locations of water mains, sizes of mains, valves, blow-off or flush hydrants, air-release valves and fire hydrants. An up-to-date copy of this map shall be submitted to the division of water supply every five (5) years.

   (4) Fire hydrants will be placed only on mains six (6) inches or larger and able to provide 500 gallons per minute with 20 psi residual.

   (5) All dead end water mains and low points in water mains shall be equipped with a blow-off or other suitable flushing mechanism capable of producing velocities adequate to flush the main.

   (6) Each year, by July 1\(^{st}\), the water commissioner or his designee, will submit to the division of water supply a Consumer Confidence Report (CCR), as per State Regulation 1200-5-1.35. This information can be obtained through Athens Utilities Board, and/or Hiwassee Utility District. (as added by Ord. #4-9-01, April 2001)

18-129. **Cross connection and backflow prevention control.** It is the duty of the supervisor of the water department to inspect properties served by the waterworks where cross-connection with the waterworks is deemed possible. These shall be done each year by June 1\(^{st}\), and a file shall be maintained of the reports. These reports shall be done in a cross-connection control and backflow prevention program and file system, approved by the Department of Environment and Conservation, (Water Regulations 1200-5-1-17(6). (as added by Ord. #4-9-01, April 2001)

18-130. **Customer complaints.** The water clerk will maintain a file of customer complaints containing the following: The nature of the complaint, the

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\(^1\)Administrative ordinances and resolutions are of record in the office of the city recorder.
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name of the complainant, date of the complaint, date of investigation, and results or action taken to correct any problems. In the event the water system exceeds standards for contaminants set in state water regulations Section 1200-5-1-19, the supervisor shall ensure that public notices as required in said section are made. (Note: Sample Notice is in Customer Complaint File). (as added by Ord. #4-9-01, April 2001)

18-131. Customer violations. The requirements contained in this chapter shall apply to all premises served by the Niota Water System whether inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction therefore shall be fined not less than $10.00, nor more than five hundred dollars ($500.00) and each of day of contained violation after conviction shall constitute a separate offense.

Regarding violations for non-payment of an account, should charges have been due for any customer for ninety (90) days, all charges may be turned over to the city attorney for collection on all such charges. The city attorney shall immediately file suit for collection of same, plus collection of court costs and a reasonable attorney's fee based on the city attorney's hourly rate. The customer shall then be absolved of any further liability for said suit. Upon collection of all outstanding charges, the water department may, at the request of the user, reinstall water service to the user. (as added by Ord. #4-9-01, April 2001)

18-132. Right to appeal. At any time prior to the filing of a suit pursuant to § 18-131, a customer may appeal any decision by the water department to the entire board of commissioners by giving notice of said appeal in writing to the city recorder, who shall immediately notify the mayor, or vice-mayor if the office be vacant.

The mayor or vice-mayor shall, upon receipt of appeal, cause to be called a meeting of the board no more than eight (8) and not less than five (5) days therefrom for the purpose of considering said appeal. At this meeting, the sole issue to be determined is whether or not the water department had acted arbitrarily or capriciously in their decision(s) or action(s). A majority of those present or voting shall decide said issue. There shall be no further appeal for said cause. If the board shall find in favor of the customer, the decision(s) or action(s) of the water department shall be reversed. Or the board shall sustain the decision(s) or action(s) of the water department. Pending determination of an appeal brought under this section, the decision(s) or action(s) of the water department is stayed; however, where the decision or action is pursuant to abating an imminent health hazard, no stay shall lie pending appeal.
Nothing in this paragraph shall be construed to create a cause of action against the water department, the City of Niota, or any of its agents or employees. (as added by Ord. #4-9-01, April 2001)

18-133. **Unlawful to use city facilities for other purposes; exceptions.** No owner or tenant shall utilize the service of the waterworks of the city for any use other than that which the application for service to the particular premises indicated and for which it was approved, without first making application and securing approval for such other use from the water department, in writing. This does not preclude the Niota Fire Department from furnishing water to cattle during times of drought. (as added by Ord. #4-9-01, April 2001)

18-134. **Wanton waste of water.** It shall be unlawful for any person to wantonly waste water supplied by the town, either to residential or commercial connections. Wanton waste of water shall include, but not be limited to, water escaping through broken pipes. (as added by Ord. #4-9-01, April 2001)

18-135. **Preference of state/federal rules and regulations.** No statement nor regulation contained in these articles shall be construed to interfere with any additional requirements which may be imposed by the Department of Environment and Conservation, EPA, or other state or federal agency. In the event of any deviation between the requirements of this chapter and applicable rules, regulations, and specifications of the state, said state and federal rules shall prevail insofar as the public water supply facilities within the service area are concerned. (as added by Ord. #4-9-01, April 2001)
CHAPTER 2

GENERAL WASTEWATER REGULATIONS

SECTION
18-201. Purpose and policy.
18-203. Definitions.
18-204. Proper waste disposal required.
18-205. Private domestic wastewater disposal.
18-206. Connection to public sewers.
18-207. Septic tank effluent pump or grinder pump wastewater systems.
18-208. Regulation of holding tank waste disposal or trucked in waste.
18-209. Discharge regulations.
18-210. Enforcement and abatement.
18-211. [Deleted.]
18-212. [Deleted.]
18-213. [Deleted.]

18-201. Purpose and policy. This chapter sets forth uniform requirements for users of the City of Niota, Tennessee, wastewater treatment system and enables the city to comply with the Federal Clean Water Act and the state Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

(1) To protect public health;
(2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;
(3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;
(4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
(5) To promote reuse and recycling of industrial wastewater and sludge from the facility;
(6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and
(7) To enable the city to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Niota must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.
This chapter shall apply to all users inside or outside the city who are, by implied contract or written agreement with the city, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 3 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 3 details permitting requirements including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. (as replaced by Ord. #7-14-14, July 2014)

18-202. Administrative. Except as otherwise provided herein, the commissioner of sewage and sanitation shall serve as local administrative officer of the city and shall administer, implement, and enforce the provisions of this chapter. The board of commissioners shall serve as the local hearing authority. (as replaced by Ord. #7-14-14, July 2014)

18-203. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Administrator." The Administrator of the United States Environmental Protection Agency.

(2) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. § 1251, et seq.

(3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Resources.

(4) "Authorized" or "duly authorized" representative of industrial user:
   (a) If the user is a corporation:
      (i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or
      (ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can insure that the necessary systems are established or actions taken to gather complete and
accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in subsections (a) through (c), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(5) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-209 of this chapter. BMPs also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees centigrade (20° C) expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system. The building sewer is owned and maintained by the user or property owner.

(8) "Categorical standards." The National Categorical Pretreatment Standards as found in 40 CFR chapter I, subchapter N, parts 405--471.

(9) "City." The Board of Commissioners, City of Niota, Tennessee.

(10) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(11) "Compatible pollutant" shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.
(12) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(13) "Control authority." The term "control authority" shall refer to the "approval authority," defined herein above; or the local hearing authority if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

(14) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(15) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(16) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(17) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

(18) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(19) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(20) "Environmental Protection Agency (EPA)." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(21) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(22) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one (1) detention period. The detention period is to be based on a 24-hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being
evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(23) "Grease interceptor." An interceptor whose rated flow is fifty gallons per minute (50 g.p.m.) or less and is generally located inside the building.

(24) "Grease trap." An interceptor whose rated flow is fifty gallons per minute (50 g.p.m.) or more and is located outside the building.

(25) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(26) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(27) "Indirect discharge." The introduction of pollutants into the WWF from any non-domestic source.

(28) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act (33 U.S.C. § 1342).

(29) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(30) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composit ed sample collected, independent of the industrial flow rate and the duration of the sampling event.

(31) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(32) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(33) "Local administrative officer." The chief administrative officer of the local hearing authority.

(34) "Local hearing authority." The board of mayor and aldermen or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-305.

(35) "National categorical 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.
(36) "North American Industrial Classification System (NAICS)." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) system.

(37) "New source." (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program;

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.
(38) "National Pollution Discharge Elimination System (NPDES)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Clean Water Act as amended.

(39) "Pass-through." A discharge which exits the Wastewater Facility (WWF) into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit including an increase in the magnitude or duration of a violation.

(40) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(41) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(42) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(43) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(44) "Pretreatment" or "treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR section 403.6(d).

(45) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(46) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(47) "Pretreatment standards" or "standards." A prohibited discharge standard categorical pretreatment standard and local limit.

(48) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid
nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. See WWF, wastewater facility, found in definition number (64) below.

(49) "Shall" is mandatory; "may" is permissive.
(50) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or
(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).
(51) "Significant noncompliance." Per 0400-40-14-.08(6)(b)8.

(a) Chronic violations of wastewater discharge limits, defined there as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.
(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.
(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF personnel or the general public).
(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-305(1)(b)(i)(D), "Emergency order," to halt or prevent such a discharge.
(e) Failure to meet within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(52) "Slug." Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the WWF's regulations, local limits, or permit conditions.

(53) "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.

(54) "State." The State of Tennessee.

(55) "Storm sewer" or "storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(56) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(57) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(58) "Surcharge." An additional fee assessed to a user who discharges compatible pollutants at concentrations above the established surcharge limits. Surcharge limits are the level at which the permit holder will be billed higher rates to offset the cost of treating wastewater which exceeds the surcharge limits. Exceeding a surcharge limit but not a monthly average or daily maximum limit will not result in enforcement action.

(59) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.
(60) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(61) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a 24-hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(62) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability, Tennessee Code Annotated, § 68-221-201.

(63) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

(64) "Wastewater facility." Any or all of the following: the collection/ transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or publicly owned treatment works.

(65) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(66) "0400-40-14." Chapter 0400-40-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (as replaced by Ord. #7-14-14, July 2014)

18-204. Proper waste disposal required. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter or city or state regulations.
(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in subsection (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available property owners shall within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Discharging into the sanitary sewer without permission of the city is strictly prohibited and is deemed "theft of service."

(6) Where a public sanitary sewer is not available under the provisions of subsection (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-205 of this chapter.

(7) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(8) Users have a duty to comply with the provisions of this chapter in order for the city to fulfill the stated policy and purpose. Significant industrial users must comply with the provisions of this chapter and applicable state and federal rules according to the nature of the industrial discharge. (as replaced by Ord. #7-14-14, July 2014)

18-205. Private domestic wastewater disposal. (1) Availability.
   (a) Where a public sanitary sewer is not available under the provisions of § 18-204(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.
   (b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.
   (c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state...
regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the county health department. (as replaced by Ord. #7-14-14, July 2014)

18-206. Connection to public sewers. (1) Application for service.

(a) There shall be two (2) classifications of service:

(i) Residential; and

(ii) Service to commercial, industrial and other nonresidential establishments.

In either case, the owner or his agent shall make application for connection on a special form furnished by the city. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include but are not limited to those required by this chapter. Service connection fees for establishing new sewer service are paid to the city. Industrial user discharge permit fees may also apply. The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(b) Users shall notify the city of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum
of sixty (60) days prior to the change. The city may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of the ordinance comprising this chapter shall be completely and permanently disconnected within sixty (60) days of the effective day the ordinance comprising this chapter. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of ground water shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first submitting a connection application to the city.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the city at the time the application is filed.

The applicant is responsible for excavation and installation of the building sewer which is located on private property. The city will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the
superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system--four inches (4"").

(ii) The minimum depth of a building sewer shall be eighteen inches (18"").

(iii) Building sewers shall be laid on the following grades:

   - four inch (4") sewers--1/8 inch per foot.
   - Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one (1) at each change of direction of the building sewer which is greater than forty-five degrees (45\(^\circ\)). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only by the city and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.
(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved pump system according to § 18-207 and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications by the ASTM. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections. (i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. (a) Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the city. Owners failing to maintain or repair building sewers or who allow stormwater or groundwater to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(b) The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with.
(c) The point of division between the building sewer and the city owned sewer tap or service connection shall be at the property line, right-of-way line, property line sewer cleanout, or such point in this general area as identified by the superintendent. The city owned tap or service line connection cannot extend onto private property except that minimal distance to the edge of rights-of-way, easements, or that distance necessary to cross other city utility lines and provide a location unencumbered by other underground city utilities where the user can make a connection to the building sewer without risk of damage to those other city utilities.

(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the city. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works, located at (April 2014):
http://www.state.tn.us/environment/water/water-quality/publications.shtml#tech.

Contractors must provide the superintendent or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the city. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (as replaced by Ord. #7-14-14, July 2014)

18-207. Septic tank effluent pump or grinder pump wastewater systems. When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to the regulations of the city.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction and must be approved by the city.
(b) Pumps must be approved by the city and shall be maintained by the city.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the city. Installation shall follow design criteria for STEP and GP systems as provided by the superintendent.

(3) Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's
expense according to the specification of the city and connection will be made to the city sewer only after inspection and approval of the city.

(4) **Ownership and easements.** Homeowners or developers shall provide the city with ownership of the equipment and an easement for access to perform necessary maintenance or repair. Access by the city to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) **Use of STEP and GP systems.** (a) Home or business owners shall follow the STEP and GP users guide provided by the superintendent.  
(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.  
(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the STEP and GP tank.  
(d) Prohibited uses of the STEP and GP system.  
   (i) Connection of roof guttering, sump pumps or surface drains.  
   (ii) Disposal of toxic household substances.  
   (iii) Use of garbage grinders or disposers.  
   (iv) Discharge of pet hair, lint, or home vacuum water.  
   (v) Discharge of fats, grease, and oil.

(6) **Tank cleaning.** Solids removal from the septic tank shall be the responsibility of the city. However, pumping required more frequently than once every five (5) years shall be billed to the homeowner.

(7) **Additional charges.** The city shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for similar problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call including but not limited to transportation, labor, materials, excavation, subcontractors, engineering fees, cleanup expenses, and other expenses related to the service call. In addition, if the city receives regulatory fines related to equipment failure and sewage overflows all such fines will be passed on to the user. (as replaced by Ord. #7-14-14, July 2014)

**18-208. Regulation of holding tank waste disposal or trucked in waste.** No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste. Wastewater or sludge removed from Niota lift stations during cleaning and maintenance can be discharged into the plant. (as replaced by Ord. #7-14-14, July 2014)

**18-209. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical
pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of this section or other pretreatment standard may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-210 or 18-305. A user may not contribute the following substances to any WWF:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or to the operation of the WWF. Prohibited flammable materials including, but not limited to, wastestreams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140°F) or sixty degrees Centigrade (60°C) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketone, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and other flammable substances.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds forty degrees Centigrade (40°C) (one hundred four degrees Fahrenheit (104°F)) unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.
(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(i) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent or any other product of the WWF such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the WWF cause the WWF to be in non-compliance with sludge use or disposal criteria, 40 CFR 503, guidelines, or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.
(s) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) **Local limits.** In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 3 may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) **Restrictions on wastewater strength.** No person or user shall discharge wastewater which exceeds the set of standards provided in Table A Plant Protection Criteria, unless specifically allowed by their discharge permit according to chapter 3 of this title. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Maximum Concentration (mg/l)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arsenic</td>
<td>0.100</td>
</tr>
<tr>
<td>Benzene</td>
<td>0.01304</td>
</tr>
<tr>
<td>Cadmium</td>
<td>0.01187</td>
</tr>
<tr>
<td>Carbon Tetrachloride</td>
<td>1.500</td>
</tr>
<tr>
<td>Chloroform</td>
<td>0.22368</td>
</tr>
<tr>
<td>Chromium III</td>
<td>0.250</td>
</tr>
<tr>
<td>Chromium VI</td>
<td>1.000</td>
</tr>
<tr>
<td>Copper</td>
<td>0.160</td>
</tr>
<tr>
<td>Cyanide</td>
<td>0.02216</td>
</tr>
<tr>
<td>Ethylbenzene</td>
<td>0.040</td>
</tr>
<tr>
<td>Lead</td>
<td>0.100</td>
</tr>
<tr>
<td>Mercury</td>
<td>0.00058</td>
</tr>
<tr>
<td>Methylene chloride</td>
<td>0.09615</td>
</tr>
<tr>
<td>Molybdenum</td>
<td>Monitor and report</td>
</tr>
<tr>
<td>Naphthalene</td>
<td>0.0125</td>
</tr>
</tbody>
</table>
Parameter | Maximum Concentration (mg/l)
---|---
Nickel | 0.250
Phenol | 0.11741
Selenium | Monitor and report
Silver | 0.02941
Tetrachloroethylene | 0.13889
Toluene | 0.21429
Total Phthalate | 0.16974
Trichlorethlene | 0.100
1,1,1-Trichloroethane | 0.250
1,2 Transdichloroethylene | 0.0075
Zinc | 0.290

(4) Fats, oils and grease traps and interceptors. (a) Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be installed when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.
(iii) Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan within a reasonable amount of time;

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plant, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable city guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the city is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the city. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the city has under this chapter, or state or federal law. The city retains the right to inspect and approve installation of control equipment.

(f) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. The use of
other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the city is prohibited.

(g) The superintendent may use industrial wastewater discharge permits under § 18-302 to regulate the discharge of fat, oil and grease. (as replaced by Ord. #7-14-14, July 2014)

18-210. Enforcement and abatement. Violators of these wastewater regulations may be cited to city court, general sessions court, chancery court, or other court of competent jurisdiction face fines, have sewer service terminated or the city may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 3. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The city may take any or all the following remedies:

(1) Cite the user to city or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, including if applicable legal costs, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (as replaced by Ord. #7-14-14, July 2014)

18-211. [Deleted.] (as deleted by Ord. #7-14-14, July 2014)

18-212. [Deleted.] (as deleted by Ord. #7-14-14, July 2014)

18-213. [Deleted.] (as deleted by Ord. #7-14-14, July 2014)
CHAPTER 3

INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

SECTION
18-301. Industrial pretreatment.
18-302. Discharge permits.
18-303. Industrial user additional requirements.
18-304. Reporting requirements.
18-305. Enforcement response plan.
18-307. Fees and billing.
18-308. Validity.

18-301. Industrial pretreatment. In order to comply with Federal Industrial Pretreatment Rules 40 CFR 403 and Tennessee Pretreatment Rules 0400-40-14 and to fulfill the purpose and policy of this chapter the following regulations are adopted:

1. User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-209 of this title.
2. Users wishing to discharge pollutants at higher concentrations than Table A Plant Protection Criteria of § 18-209, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-305.
3. Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.
4. Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as local limits, Table B or other applicable state and federal pretreatment rules which may be in effect or take effect after the passage of the ordinance comprising this chapter.
NOTE: As of January 2014 the Niota sewer plant has allocated industrial pollutants based on industrial need. Dycho and Crescent permit limits have effectively used all available industrial pollutant loading. The treatment plant has no capacity available for new industrial users.

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Monthly Average* Maximum Concentration (mg/l)</th>
<th>Daily Maximum Concentration (mg/l)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arsenic</td>
<td>0.4473</td>
<td>0.67095</td>
</tr>
<tr>
<td>Benzene</td>
<td>0.04878</td>
<td>0.07317</td>
</tr>
<tr>
<td>Cadmium</td>
<td>0.05148</td>
<td>0.0772254</td>
</tr>
<tr>
<td>Carbon Tetrachloride</td>
<td>6.747</td>
<td>10.11</td>
</tr>
<tr>
<td>Chloroform</td>
<td>0.9942</td>
<td>1.49137</td>
</tr>
<tr>
<td>Chromium III</td>
<td>1.0575</td>
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<td>Chromium VI</td>
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</tr>
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<td>Copper</td>
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<td>Cyanide</td>
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<td>Ethylbenzene</td>
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<td>Lead</td>
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<td>Mercury</td>
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<td>Methylene chloride</td>
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</tr>
<tr>
<td>Molybdenum</td>
<td>Monitor and report</td>
<td>Monitor and report</td>
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<tr>
<td>Napthalene</td>
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<td>0.014715</td>
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<td>Nickel</td>
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<td>1.6665</td>
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<td>Phenol</td>
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<tr>
<td>Selenium</td>
<td>Monitor and report</td>
<td>Monitor and report</td>
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<tr>
<td>Silver</td>
<td>0.1318</td>
<td>0.1977</td>
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<tr>
<td>Tetrachloroethylene</td>
<td>0.6151</td>
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<tr>
<td>Toluene</td>
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<tr>
<td>Total Phthalate</td>
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<tr>
<td>Trichlorethlene</td>
<td>0.4401</td>
<td>0.660</td>
</tr>
<tr>
<td>1,1,1-Trichloroethane</td>
<td>1.1151</td>
<td>1.6726</td>
</tr>
<tr>
<td>1,2 Transdichloroethylene</td>
<td>0.02385</td>
<td>0.035775</td>
</tr>
<tr>
<td>Zinc</td>
<td>0.8028</td>
<td>1.2042</td>
</tr>
</tbody>
</table>

*Based on 24-hour flow proportional composite samples unless specified otherwise.
(5) **Surcharge limits and maximum concentrations.** Dischargers of high strength waste may be subject to surcharges based on the following surcharge limits. Maximum concentrations may also be established for some users.

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Surcharge Limit</th>
<th>Maximum Concentration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Kjeldahl Nitrogen (TKN)</td>
<td>85</td>
<td>120</td>
</tr>
<tr>
<td>Oil and Grease</td>
<td>50</td>
<td>100</td>
</tr>
<tr>
<td>BOD</td>
<td>300</td>
<td>600</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>350</td>
<td>700</td>
</tr>
</tbody>
</table>

(6) **Protection of treatment plant influent.** The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A -- Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) **User inventory.** The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) **Right to establish more restrictive criteria.** No statement in this chapter is intended or may be construed to prohibite the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be
imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency.

(9) Combined wastestream formula. When wastewater subject to categorical pretreatment standards is mixed with wastewater not regulated by the same standard, the permitting authority may impose an alternate limit using the combined wastestream formula. (as added by Ord. #7-14-14, July 2014)

18-302. Discharge permits. (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the city sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-206 of this title and an inspection has been performed by the superintendent or his representative.

The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required to apply for a permit within one hundred eighty (180) days after the effective date of the ordinance comprising this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address, and SIC/NAICS number of applicants;
wastewater volume; wastewater constituents and characteristics, including but not limited to those mentioned in §§ 18-209 and 18-301 discharge variations--daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this subsection, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section.
Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city.

(i) Permits shall contain the following:

(A) Statement of duration;
(B) Provisions of transfer;
(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws.
(D) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;
(F) Requirements to control slug discharges, if determined by the WWF to be necessary;
(G) Requirement to notify the WWF immediately if changes in the users processes affect the potential for a slug discharge.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
(B) Requirements for installation and maintenance of inspection and sampling facilities;
(C) Compliance schedules;
(D) Requirements for submission of technical reports or discharge reports;
(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;
(F) Requirements for notification of the city sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;
(G) Prohibition of bypassing pretreatment or pretreatment equipment;
(H) Effluent mass loading restrictions;
(i) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the prior written approval of the local administrative officer. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:
(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges;

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the city's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized and confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (as added by Ord. #7-14-14, July 2014)

18-303. Industrial user additional requirements. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may
require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 CFR 136 and appropriate EPA guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: For cyanide, total phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organic and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance
of any of its duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. The city will utilize qualified city personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluation. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance.

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug
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discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the WWF, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(as added by Ord. #7-14-14, July 2014)

18-304. Reporting requirements. Users, whether permitted or non-permitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-305.

(1) Baseline monitoring report. (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 0400-40-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the superintendent a report which contains the information listed in subsection (B), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in subsection (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below:

(i) Identifying information. The user name, address of the facility including the name of operators and owners.
(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula.

(v) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 CFR 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this subsection.

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to
allow use of the combined wastestream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 CFR 136 or other approved methods.

(H) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-304(2) of this chapter.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-304(14) of this chapter and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-304(1)(d) of this chapter:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

(b) No increment referred to above shall exceed nine (9) months.

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for
any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

(d) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in § 18-304(1)(b)(iv) and (v) of this chapter. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) of this section. All sampling will be done in conformance with subsection (11).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the superintendent submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this chapter.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in subsection (11) of this section, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.
(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-301 of this chapter.

(b) The superintendent may issue an individual wastewater discharge permit under section § 18-302 of this chapter or modify an existing wastewater discharge permit under § 18-302 of this chapter in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (a), above. Employees shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require to determine users status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation, the user must notify the superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the
results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-304(5) of this chapter. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections (1), (3), and (4) of this section.

(b) Dischargers are exempt from the requirements of subsection (a) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the
superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by the EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in subsections (b) and (c) below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the superintendent. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 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 organic and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in subsections (1) and (3) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) **Date of receipt of reports.** Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, the date of receipt of the report shall govern.

(13) **Recordkeeping.** Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-302. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the superintendent.

(14) **Certification statements; signature and certification.** All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Reports required to have signatures and certification statement include, permit applications, periodic reports, compliance schedules, baseline monitoring,
reports of accidental or slug discharges, and any other written report that may
be used to determine water quality and compliance with local, state, and federal
requirements. (as added by Ord. #7-14-14, July 2014)

18-305. Enforcement response plan. Under the authority of
Tennessee Code Annotated, § 69-3-123, et seq.:

(1) Complaints; notification of violation; orders.
   (a) (i) Whenever the local administrative officer has reason
to believe that a violation of any provision of the Niota Wastewater
Regulations, pretreatment program, or of orders of the local
hearing authority issued under it has occurred, is occurring, or is
about to occur, the local administrative officer may cause a written
complaint to be served upon the alleged violator or violators.
   (ii) The complaint shall specify the provision or
provisions of the pretreatment program or order alleged to be
violated or about to be violated and the facts alleged to constitute
a violation, may order that necessary corrective action be taken
within a reasonable time to be prescribed in the order, and shall
inform the violators of the opportunity for a hearing before the
local hearing authority.
   (iii) Any such order shall become final and not subject to
review unless the alleged violators request by written petition a
hearing before the local hearing authority as provided in
subsection (2) of this section, no later than thirty (30) days after
the date the order is served; provided, that the local hearing
authority may review the final order as provided in Tennessee
Code Annotated, § 69-3-123(a)(3).
   (iv) Notification of violation. Notwithstanding the
provisions of subsections (i) through (iii), whenever the
pretreatment coordinator finds that any user has violated or is
violating this chapter, a wastewater discharge permit or order
issued hereunder, or any other pretreatment requirements, the
city or its agent may serve upon the user a written notice of
violation. Within fifteen (15) days of the receipt of this notice, the
user shall submit to the pretreatment coordinator an explanation
of the violation and a plan for its satisfactory correction and
prevention including specific actions. Submission of this plan in no
way relieves the user of liability for any violations occurring before
or after receipt of the notice of violation. Nothing in this section
limits the authority of the city to take any action, including
emergency actions or any other enforcement action without first
issuing a notice of violation.
   (b) (i) When the local administrative officer finds that a user
has violated or continues to violates this chapter, wastewater
discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the WWF, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action
as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the city in meeting the emergency.

(ii) Appeals from orders of the local administrative officer. (A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) **Hearings.** (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following, under the authority of Tennessee Code Annotated, § 69-3-124:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection, the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under
subsection (a)(vi). The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the Chancery Court of McMinn County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (b);

(viii) Any person to whom an emergency order is directed under subsection (1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, et seq. within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment
standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations; administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125:

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs:

(A) Unauthorized discharge, discharging without a permit;
(B) Violates an effluent standard or limitation;
(C) Violates the terms or conditions of a permit;
(D) Fails to complete a filing requirement;
(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;
(F) Fails to pay user or cost recovery charges; or
(G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;
(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the
violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil liability which can be assessed by the local administrative officer for certain specific violations or categories of violations.
(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a) shall not exceed ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders. Under the authority of Tennessee Code Annotated, § 69-3-126:

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the city resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. Under the authority of Tennessee Code Annotated, § 69-3-127:

The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-302(2)(g) of this chapter, users are subject to termination of
their wastewater discharge for violations of a wastewater discharge permits, or orders issued hereunder, or for any of the following conditions:

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user’s premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-209.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties--special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of non-compliance. (a) Insignificant non-compliance. For the purpose of this guide, insignificant non-compliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV).

(b) Significant non-compliance. Per 0400-40-14-.08(6)(b)8:

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF
determines has caused, alone or in combination with other
discharges, interference or pass through (including endangering
the health of POTW personnel or the general public).

(iv) Any discharge of a pollutant that has caused
imminent endangerment to human health, welfare or to the
environment or has resulted in the WWF's exercise of its
emergency authority under § 18-305(1)(b)(i)(D), emergency order,
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 a
local control mechanism or enforcement order for starting
construction, completing construction, or attaining final
compliance.

(vi) Failure to provide, within forty-five (45) days after
their due date, required reports such as baseline monitoring
reports, 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 may
include a violation of best management practices, which the WWF
determines will adversely affect the operation of implementation
of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed
limits for a time period greater than fifty (50) minutes or exceed
limits by more than 0.5 s.u. more than eight (8) times in four (4)
hours.

Any significant non-compliance violations will be responded
to according to the Enforcement Response Plan Guide Table
(Appendix A).

(9) Public notice of the significant violations. The superintendent shall
publish annually, in a newspaper of general circulation that provides
meaningful public notice within the jurisdictions served by the WWF, a list of
the users which, at any time during the previous twelve (12) months, were in
significant non-compliance with applicable pretreatment standards and
requirements. The term significant non-compliance shall be applicable to all
significant industrial users (or any other industrial user that violates
subsections (c), (d) or (h) of this section) and shall mean:

(a) Chronic violations of wastewater discharge limits, defined
here as those in which sixty-six percent (66%) or more of all the
measurements taken for the same pollutant parameter taken during a six
(6) month period exceed (by any magnitude) a numeric pretreatment
standard or requirement, including instantaneous limits;

(b) Technical Review Criteria (TRC) violations, defined here as
those in which thirty-three percent (33%) or more of wastewater
measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH), TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent’s exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (as added by Ord. #7-14-14, July 2014)

18-306. Enforcement response guide table. (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this chapter.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in Appendix A1 to impose sanctions or penalties for the violation of this chapter. (as added by Ord. #7-14-14, July 2014)

1Appendix A is available for review in the office of the city recorder.
18-307. **Fees and billing.** (1) **Purpose.** It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) **Types of charges and fees.** The charges and fees as established in the city's schedule of charges and fees may include but are not limited to:

(a) Inspection fee and tapping fee;
(b) Fees for applications for discharge;
(c) Sewer use charges;
(d) Surcharge fees (see Table C);
(e) Waste hauler permit;
(f) Industrial wastewater discharge permit fees;
(g) Fees for industrial discharge monitoring; and
(h) Other fees as the city may deem necessary.

(3) **Fees for application for discharge.** A fee may be charged when a user or prospective user makes application for discharge as required by § 18-302 of this chapter.

(4) **Inspection fee and tapping fee.** An inspection fee and tapping fee for a building sewer installation shall be paid to the city's sewer department at the time the application is filed.

(5) **Sewer user charges.** The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) **Industrial wastewater discharge permit fees.** A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-307 of this chapter.

(7) **Fees for industrial discharge monitoring.** Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) **Administrative civil penalties.** Administrative civil penalties shall be issued according to the following schedule. Violation are categorized in the Enforcement Response Guide Table (Appendix A). The local administrative officer may access a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

<table>
<thead>
<tr>
<th>Category</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category 1</td>
<td>No penalty</td>
</tr>
<tr>
<td>Category 2</td>
<td>$50.00-$500.00</td>
</tr>
<tr>
<td>Category 3</td>
<td>$500.00-$1,000.00</td>
</tr>
</tbody>
</table>

1Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.
Category 4
$1,000.00-$5,000.00
Category 5
$5,000.00-$10,000.00
(as added by Ord. #7-14-14, July 2014)

18-308. **Validity.** This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the city. (as added by Ord. #7-14-14, July 2014)
CHAPTER 4

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION
18-401. Definitions.
18-402. Standards.
18-403. Construction, operation, and supervision.
18-404. Statement required.
18-405. Inspections required.
18-406. Right of entry for inspections.
18-407. Correction of existing violations.
18-408. Use of protective devices.
18-409. Unpotable water to be labeled.
18-410. Violations.

18-401. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the City of Niota for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.

(2) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside or any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "By-pass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Inter-connection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country. (Ord. #29, Aug. 1978, as renumbered by Ord. #7-14-14, July 2014)

¹Municipal code references
Water and sewer system administration: title 18.
Wastewater treatment: title 18.
18-402. **Standards.** The Niota Public Water Supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, by-passes, and inter-connections, and establish an effective ongoing program to control these undesirable water uses. (Ord. #29, Aug. 1978, as renumbered by Ord. #7-14-14, July 2014)

18-403. **Construction, operation, and supervision.** It shall be unlawful for any person to cause a cross-connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health, and the operation of such cross-connection, auxiliary intake, by-pass or inter-connection is at all times under the direct supervision of the Superintendent of Water of the City of Niota. (Ord. #29, Aug. 1978, as renumbered by Ord. #7-14-14, July 2014)

18-404. **Statement required.** Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of water a statement of the non-existence of unapproved or unauthorized auxiliary intakes, by-passes, or inter-connections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or inter-connection will be permitted upon the premises. (Ord. #29, Aug. 1978, as renumbered by Ord. #7-14-14, July 2014)

18-405. **Inspections required.** It shall be the duty of the Niota Public Water Supply to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved shall be established by the Superintendent of Water of the Niota Public Water Supply and as approved by the Tennessee Department of Health. (Ord. #29, Aug. 1978, as renumbered by Ord. #7-14-14, July 2014)

18-406. **Right of entry for inspections.** The superintendent of water or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Niota Public Water Supply for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, by-passes, or inter-connections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of
access, when requested, shall be deemed evidence of the presence of cross-connections. (Ord. #29, Aug. 1978, as renumbered by Ord. #7-14-14, July 2014)

18-407. **Correction of existing violations.** Any person who now has cross-connections, auxiliary intakes, by-passes, or other connections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the Superintendent of Water of the Niota Public Water Supply.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the Niota Public Water Supply, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued, and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross-connections, inter-connections, auxiliary intakes, or by-passes are found that constitutes an extreme hazard of immediate concern of contaminating the public water system, the manager of the utility shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is corrected immediately. (Ord. #29, Aug. 1978, as renumbered by Ord. #7-14-14, July 2014)

18-408. **Use of protective devices.** Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

1. Impractical to provide an effective air-gap separation.
2. That the owner and/or occupant of the premises cannot or is not willing, to demonstrate to the official in charge of the system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply.
3. That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.
4. There is a likelihood that protective measures may be subverted, altered, or disconnected. The Superintendent of Water of the Niota Public Water Supply or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type
backflow preventer approved by the Tennessee Department of Health as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the Superintendent of Water of the Niota Public Water Supply prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the Niota Public Water Supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the superintendent of water or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the superintendent of water shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water supply shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the Superintendent of Water of the Niota Public Water Supply.

If necessary, water service shall be discontinued (following legal notification) for failure to maintain backflow prevention devices in proper working order. Likewise, the removal, bypassing, or altering of the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Niota Public Water Supply.

(Ord. #29, Aug. 1978, as renumbered by Ord. #7-14-14, July 2014)

18-409. Unpotable water to be labeled. The potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING
Minimum acceptable sign shall have black letters at least one-inch high located on a red background. (Ord. #29, Aug. 1978, as renumbered by Ord. #7-14-14, July 2014)

**18-410. Violations.** The requirements contained herein shall apply to all premises served by the Niota Water System whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the Niota corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500), and each day of continued violation after conviction shall constitute a separate offense. (Ord. #29, Aug. 1978, as renumbered by Ord. #7-14-14, July 2014)
TITLE 19

ELECTRICITY AND GAS

CHAPTER
1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY

SECTION
19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Electricity 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. (1978 Code, § 13-301)
CHAPTER 2

GAS

SECTION
19-201. To be furnished under franchise.

19-201. To be furnished under franchise. Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.¹ (1978 Code, § 13-401)

¹The agreements are of record in the office of the city recorder.
TITLE 20

MISCELLANEOUS

RESERVED FOR FUTURE USE
ORDINANCE NO. 2-94

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF NIOTA TENNESSEE.

WHEREAS some of the ordinances of the City of Niota are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Commissioners of the City of Niota, 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 "Niota Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF NIOTA, THAT:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Niota 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 budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the
city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars ($500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited

\[\text{1State law reference}
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For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.
with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of commissioners, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.
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.


Effie Jones  
Mayor

Iris A. Wilkerson  
Recorder