THE
NIOTA
MUNICIPAL
CODE

Prepared by the

April 2023

Change 1
April 10, 2023

CITY OF NIOTA, TENNESSEE

MAYOR

Lois Preece

VICE MAYOR

Allen Watkins

COMMISSIONERS

Todd Baker
Renee Brakebill
David Dilbeck

RECORDER

Jeannie Anderson

CITY ATTORNEY

Charles Pope

PREFACE[1]

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 § 2-106.

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

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

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

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

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

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

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

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

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

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

Section 12. Procedure for adopting ordinances. All ordinances shall begin with the clause, "Be it ordained by the Mayor and Board of Commissioners of the City of Niota, Tennessee." An ordinance may be introduced by the Mayor or any of the five (5) Commissioners. The body of ordinances may be omitted from the minutes on first passage, but reference therein shall be made to the ordinance by title and subject matter. Every ordinance shall be passed on two (2) different days, at regular, special or adjourned meetings, with at least one (1) passage occurring at a regular meeting. Copies of the text of every ordinance must be made available to the public during every meeting in which the ordinance is subject to passage. Every ordinance must receive at least, a majority vote on each passage as defined in Section 10 of this Article. Every ordinance shall be effective upon final passage unless by its terms the effective date is deferred. Every ordinance upon final passage shall be signed by the Mayor, and shall be immediately taken charge of by the Recorder and numbered, copied in an ordinance book and there authenticated by the signature of the Recorder, and filed and preserved in the Recorder's office.

TABLE OF CONTENTS

PAGE

PAGE

PAGE

TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

CHAPTER 1

GOVERNING BODY[2]

SECTION

1-101. Time and place of regular meetings. The governing body shall hold regular monthly meetings at 6:00 P.M. on the second Monday of each month. (1994 Code, § 1-101, as amended by Ord. #3-172, April 2017, modified)

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

[2]Charter references
Compensation: art. iv.
Meetings: art. iv.
Oath of office: art. iv.
Powers: art. ii.
Quorum: art. iv.
Residence requirements: art. iv.
Term of office: art. iv.
Vacancies in office: art. iv.

1-102. Order of business. At each regular monthly meeting of the governing body, the regular order of business shall be observed. (1994 Code, § 1-102, as amended by Ord. #3-172, April 2017, modified)

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. (1994 Code, § 1-103)

1-103. Salary.[1] The salary of the Mayor of the City of Niota is hereby set at one thousand eight hundred dollars ($1,800.00) per year, and the salaries of the board of commissioners is hereby set at one thousand two hundred dollars $1,200.00) per year, effective for each new term of office which begins on or after the next general city election and for the remaining officials elected two (2) years later. Said salaries may be adjusted from time to time by ordinance. (as added by Ord. #23-49, April 2023 ***Ch1_04-10-23)***

[1]Charter reference
Compensation; expenses: art. iv, § 2.

CHAPTER 2

MAYOR[1]

SECTION

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. (1994 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. (1994 Code, § 1-202)

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[1]Charter references
Authority to call special meetings: art. iv.
Compensation: art. iv.
Oath: art. iv.
Residence requirements: art. iv.
Vacancies in office: art. iv.

CHAPTER 3

RECORDER[1]

SECTION

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. (1994 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. (1994 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. (1994 Code, § 1-303)

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[1]Charter references
Appointed: art. vii.
Bond: art. vii.
Compensation: art. vii.

CHAPTER 4

CODE OF ETHICS[1]

SECTION

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. (1994 Code, § 1-401)

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

Campaign finance: *Tennessee Code Annotated*, title 2, chapter 10.

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

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

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

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

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

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

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

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

(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. (1994 Code, § 1-402)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself[1] from voting on the measure. (1994 Code, § 1-403)

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. (1994 Code, § 1-404)

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:

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (1994 Code, § 1-405)

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. (1994 Code, § 1-406)

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. (1994 Code, § 1-407)

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. (1994 Code, § 1-408)

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. (1994 Code, § 1-409)

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. (1994 Code, § 1-410)

1-411. <u>Violations and penalty</u>. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (1994 Code, § 1-411)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3

MUNICIPAL COURT[1]

CHAPTER

CHAPTER 1

MUNICIPAL JUDGE

SECTION

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 s 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 (18) 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 (2) 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 five thousand dollars ($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 therefor.

(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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[1]Charter references
Appointed: art. xi.
Compensation: art. xi.
Powers: art. xi.
Term of office: art. xi.

(5) When the municipal judge is absent, unavailable or disabled from presiding over the municipal court, a temporary replacement will be appointed, or it will be rescheduled. (1994 Code, § 3-101, as amended by Ord. #3-172, April 2017, modified)

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket. The court clerk 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. (1994 Code, § 3-201, modified)

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

City court costs shall be in accordance with the following schedule and shall be subject to revision from time to time as the board of commissioners deems necessary:

(1) Fine: Fifty dollars ($50.00) per violation;

(2) Court cost: One hundred thirty-three dollars and seventy-five cents ($133.75) per violation; and

(3) Litigation fee: Thirteen dollars and seventy-five cents ($13.75) added for any moving violation. (1994 Code, § 3-202, as amended by Ord. #20-5, March 2020)

3-203. Disposition and report of fines, penalties and costs. All funds coming into the hands of the city court clerk 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. (1994 Code, § 3-203, as amended by Ord. #3-172, April 2017)

3-204. Contempt of court. 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. (1994 Code, § 3-204, modified)

3-205. Trial and disposition of cases. Every person charged with violating a city ordinance shall be entitled to an immediate trial and disposition of his case; provided the 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. (1994 Code, § 3-205, modified)

3-206. City court clerk. The city court clerk shall be and act as clerk of the municipal court, and shall assist the municipal judge in that capacity as requested. (1994 Code, § 3-206, as amended by Ord. #3-172, April 2017, modified)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.[1] The municipal judge shall have the power to issue warrants for the arrest of persons charged with violating city ordinances. (1994 Code, § 3-301, modified)

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 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. (1994 Code, § 3-302)

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. (1994 Code, § 3-303)

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[1]State law reference

For authority to issue warrants, see *Tennessee Code Annotated*, title 40, chapter 6.

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. 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] (1994 Code, § 3-402)

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

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

CHAPTER 1

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-101. Adopted by reference. The City of Niota herein adopts *Tennessee Code Annotated*, title 50, chapter 3, the Occupational Safety and Health Act of 1972, as if set out verbatim herein.

CHAPTER 2

PERSONNEL REGULATIONS

SECTION

4-201. Personnel rules and regulations.[1] The personnel rules and regulations for the City of Niota are adopted herein as if set out verbatim.

[1]The Personnel Rules and Regulations for the City of Niota (Ord. #20-7, May 2020), and all amending ordinances, are available in the office of the recorder.

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depository for city funds. The People's Bank of Athens is hereby designated as the official depository for all city funds. (1994 Code, § 5-101, as amended by Ord. #3-172, April 2017, modified)

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[1]Charter references
Collection of: art. x.
Delinquency penalties: art. x.
Due date: art. x.
Tax collection: art. x.

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.[1] Taxes levied by the city against real property shall become due and payable annually the first week of October of the year for which levied. (1994 Code, § 5-201, modified)

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] (1994 Code, § 5-202)

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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 one-half (1/2) of one percent (0.5%) and interest of one percent (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 (1) of three (3) 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*,

(continued...)

CHAPTER 3

PRIVILEGE TAXES

SECTION

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. (1994 Code, § 5-301)

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. (1994 Code, § 5-302)

(...continued)

§ 67-5-2005.

CHAPTER 4

WHOLESALE BEER TAX

SECTION

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] (1994 Code, § 5-401)

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[1]State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of seventeen percent (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. 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. (1994 Code, § 5-501)

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

$1,000 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.
$1,001-$5,000	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.

$5,001-$20,000	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 $20,000	No purchase shall be made at any time in an amount which in total will exceed twenty thousand dollars ($20,000.00) 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 one thousand dollars ($1,000.00) 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 twenty thousand dollars ($20,000.00) 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 twenty thousand dollars ($20,000.00) 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 twenty thousand dollars ($20,000.00) 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 (1) 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, , being *Tennessee Code Annotated*, §§ 6-56-301, *et. seq.,* 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 chapter is a guide to help the departments know their buying responsibilities. (1994 Code, § 5-502, as amended by Ord. #20-19, Oct. 2020, modified)

5-503. <u>Finance officer's responsibilities (city recorder)</u>. (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. (1994 Code, § 5-503)

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. (1994 Code, § 5-504)

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 (1) 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. (1994 Code, § 5-505)

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. (1994 Code, § 5-506)

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. (1994 Code, § 5-507)

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 (1) of the following factors:

(i) Discount allowed;
(ii) Delivery schedule;
(iii) Previous vendor performance;
(iv) Vendor location; or
(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 ensures the faithful performance of all of the terms and conditions of the purchase contract.

(s) Sealed bids and sealed proposals. (i) The following is taken from the Model Procurement Code for State and Local Governments, American Bar Association, February, 1979, pages 21-22.

(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 Tennessee 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 Tennessee.

(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. (1994 Code, § 5-508, modified)

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. (1994 Code, § 5-509)

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 (6) month period. (1994 Code, § 5-510)

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. (1994 Code, § 5-511)

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. (1994 Code, § 5-512)

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. (1994 Code, § 5-513)

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. (1994 Code, § 5-514)

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. (1994 Code, § 5-515)

5-516. Definitions. (1) "Architect or engineer required." Plans, specifications and estimates for any public works project exceeding fifty thousand dollars ($50,000.00) must be prepared by a registered architect or engineer required by *Tennessee Code Annotated*, § 62-2-107.

(2) "Customarily purchased." Items that are purchased regularly under specific circumstances considered reasonable and appropriate.

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

(4) "Lot." A single grouping of like items to be purchased at one (1) time.

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

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

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

(8) "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 no apply to nonexpendable funds not requiring budgets, such as enterprise funds, intra-governmental service funds, and nonexpendable trust funds. (1994 Code, § 5-516, modified)

CHAPTER 6

UNCLAIMED PROPERTY

SECTION

5-601. Definition. "Unclaimed personal property," as used in this chapter, shall mean all personal property such as bicycles, vehicles, electronics, jewelry, phones, clothing, furniture, appliances and other items that come to be in the possession of the city through abandonment or other means.

"Unclaimed personal property" does not include:

(1) Cash, checks, bank accounts, pension funds, stocks, bonds or other such items which are reported to the State Treasurer pursuant to the Uniform Unclaimed Property Act, *Tennessee Code Annotated*, §§ 66-29-101, *et seq*.;

(2) City surplus property[1];

(3) Any weapon, including, but not limited to, firearms or knives[2]; or

(4) Property that is seized and/or forfeited through law enforcement action[3]. (Ord. #20-17, Oct. 2020)

5-602. Notice to owner. All unclaimed personal property, which comes into the possession of any department of the city, shall, if it remains unclaimed for a period of sixty (60) days, be delivered to the purchasing agent to be disposed of under these provisions. Prior to disposal of the unclaimed personal property, the purchasing agent shall make reasonable efforts to notify the owner, including mailing notice to the owner by certified mail to the owner's last known address if such has not been done by the department that came into possession of such unclaimed property before delivery to the purchasing agent.

5-603. Methods of disposal of unclaimed personal property. (1) Methods of disposal which may be used by the purchasing agent shall include:

(a) Sales at public auction, publicly advertised and held;

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[1]Surplus personal property owned by the city is disposed of under the surplus property policy.

[2]Weapons must be disposed of under the provisions of *Tennessee Code Annotated*, § 39-17-1317.

[3]Seized or forfeited property must be disposed of under applicable state laws.

(b) Sale under sealed bids, publicly advertised, opened and recorded; or

(c) Sale by internet auction.

(2) Notice of any public auctions and sales under sealed bids, as provided in this chapter, shall be publicly advertised and publicly held. Notice of intended sale by public auction or sale under sealed bid shall be published by the purchasing agent in at least one (1) newspaper of general circulation in McMinn County. Such notice shall specify and reasonably describe the property to be sold, the date, time, place, manner, and conditions of sale, all as previously determined by the purchasing agent in accordance with the regulations of the city. The advertisement shall be printed in the public notice or equivalent section of the newspaper and shall be run not less than one (1) day. The auction or sale under sealed bid shall be made not sooner than seven (7) days after the last day of publication nor later than fifteen (15) days after the last day of publication of the required notice, excluding Saturdays, Sundays, and holidays. Prominent notice shall also be posted conspicuously for ten (10) days prior to the date of disposal, excluding Saturdays, Sundays, and holidays, in at least two (2) public places in the county. Furthermore, notice shall be sent to the county clerk and such notice shall be posted in the county courthouse unless otherwise directed by the purchasing agent.

(3) Notice of intended disposal by internet auction shall be posted on the city's website notifying the public of such intended internet sale. Such notice shall identify the website and provide a link to the online auction website in which any citizen may view and/or bid on any article. The website notice shall be displayed on a basis of twenty-four (24) hours a day, seven (7) days per week. The website notice shall reasonably describe the property to be sold, the date(s), time, manner and conditions of sale, all as previously determined by the internet auction provider in accordance with the contract and/or signed agreement with the city.

(4) The purchasing agent shall furnish the governing body a list of all unclaimed personal property disposed of, the method of disposal of such property, and the price obtained as a result of the sale of any unclaimed personal property. (Ord. #20-17, Oct. 2020)

5-604. <u>Disposition of proceeds of sale of unclaimed personal property</u>. (1) All funds received from the sale of unclaimed personal property from any city department shall be paid by the purchasing agent into the city treasury. The purchasing agent shall certify to the city treasurer the expense incurred in making the sale or otherwise disposing of such property, including the costs and expenses of storage during the period such property was in the possession of the city. All funds received from the sales of unclaimed personal property shall be paid into the city general fund.

(2) If the owner of any article of unclaimed personal property sold presents satisfactory proof to the city that they were the owner of any article

sold within a period of thirty (30) days after the sale, they shall be entitled to the proceeds of the sale thereof, less their proportionate share of the expenses of the sale. (Ord. #20-17, Oct. 2020)

TITLE 6

LAW ENFORCEMENT

CHAPTER

CHAPTER 1

POLICE AND ARREST

SECTION

6-101. Police officers subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1994 Code, § 6-101)

6-102. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court. (1994 Code, § 6-102)

6-103. Police officers to wear uniforms and be armed. All police officers shall wear such uniform and badge as the governing body shall authorize and shall carry a service pistol and appropriate equipment at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1994 Code, § 6-103, as amended by Ord. #3-172, April 2017)

6-104. When police officers 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 police officer 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. (1994 Code, § 6-104)

6-105. Police officers may require assistance. It shall be unlawful for any person willfully to refuse to aid a police officer in making a lawful arrest when such a person's assistance is requested by the police officer and is reasonably necessary. (1994 Code, § 6-105)

6-106. Police department records. McMinn County Emergency Services shall keep a comprehensive and detailed daily record in permanent form, showing:

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

(2) All arrests made by police officers; and

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1994 Code, § 6-107, modified)

6-107. 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. (1994 Code, § 6-108)

TITLE 7

FIRE PROTECTION AND FIREWORKS

CHAPTER

CHAPTER 1

VOLUNTEER FIRE DEPARTMENT[1]

SECTION

7-101. Establishment, equipment, and membership. There is hereby established the Niota Fire Department to be supported and equipped from appropriations of the City of Niota Board of Commissioners. Any funds raised by the fire department as a whole or by any individual or group of individuals in the name of the fire department, and any gifts to the fire department shall become the property of the fire department and used by the fire department to fund various community programs. All other apparatus, equipment, and supplies of the fire department shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a fire chief, appointed by the board of commissioners, and the board of commissioners shall approve such number of subordinate officers and firefighters as the fire chief shall appoint. (Ord. #22-31, _____ _____, modified)

7-102. Objectives. The Niota 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.

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[1]Municipal code reference

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

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

(4) To extinguish uncontrolled fires.

(5) To reduce morbidity and mortality from trauma, medical, and other life-threatening emergencies by providing emergency medical care at the highest level that the equipment and training of the personnel makes practical.

(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.

(7) To provide code enforcement and building inspections as directed by the city within adopted codes and ordinances.

(8) To plan, prepare for, and respond to natural and man-made disasters as part of the community's emergency management plan by serving as the emergency management agency of the city, in cooperation with the county emergency management agency and TEMA.

(9) To protect life, property, and the environment from the unintended release of chemical, biological, and radiological hazardous chemicals and substances to the extent possible that the level of equipment and training will allow.

(10) To plan, prepare for, and respond to terrorism threats to hometown security based upon the anticipated risk to the community.

(11) To work with the water department to ensure that adequate water supplies for fire protection are available.

(12) To provide public fire education materials and community risk reduction information to the citizens in order that they may protect themselves from harm. (Ord. #22-31, _____ _____)

7-103. Organization, rules, and regulations. The fire chief shall, under the direction of the board of commissioners, set up the organization of the department, make work assignments to individuals, based on input, suggestions, and recommendations from the members of the fire department, and shall formulate and enforce such rules, regulations, and policies as shall be necessary for the orderly and efficient operation of the fire department. (Ord. #22-31, _____ _____)

7-104. Records and reports. The fire chief shall prepare the annual departmental budget to be approved by the board of commissioners, keep adequate records of all fires, inspections, apparatus, equipment, personnel, training, maintenance, and work of the department. The fire chief shall submit such written reports to the board of commissions, as the board requires. (Ord. #22-31, _____ _____)

7-105. Tenure and compensation of members. The fire chief shall have the authority to suspend or dismiss any other member of the fire department when the fire chief deems such action to be necessary for the good of the department. The mayor has the authority to discipline the fire chief. The

fire chief may be terminated with a majority plus one (1) vote of the board of mayor and commissioners. (Ord. #22-31, _____ _____)

All members of the fire department shall receive such compensation for their services as the board of commissioners prescribes. (Ord. #22-31, _____ _____)

7-106. Chief responsible for training and maintenance. The fire chief shall be fully responsible for the training of the firefighters, for maintenance of all apparatus, property, and equipment of the fire department, under the direction and subject to the requirements of the board of commissioners. All firefighters shall comply with the minimum training requirements specified in *Tennessee Code Annotated*, § 4-24-112. (Ord. #22-31, _____ _____, modified)

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 commerce and insurance and is subject to all the duties and obligations imposed by *Tennessee Code Annotated*, title 68,chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (Ord. #22-31, _____ _____)

7-108. Fire department to respond to emergencies. The fire department shall respond to fires and other emergencies within the town limits. Personnel and/or equipment of the fire department may be used for fighting any fire, or assisting with emergencies, outside the town limits if:

(1) The fire chief, or his representative, determines there is a need to support other local governments or agencies.

(2) The board of commissioners has developed policies for providing emergency services outside of the town limits or entered into a contract or mutual aid agreement pursuant to the authority of

(a) The Local Government Emergency Assistance Act of 1987, as amended, codified in *Tennessee Code Annotated*, § 58-2-601 *et seq*.,

(b) *Tennessee Code Annotated*, § 12-9-101 *et seq*. or

(c) *Tennessee Code Annotated*, § 6-54-601. (Ord. #22-31, _____ _____, modified)

CHAPTER 2

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-201. Equipment to be used only within corporate limits generally. Fire equipment to be used primarily within the corporate city limits and as requested outside the corporate city limits with approval of the fire chief or senior fire official. Fire equipment to be used primarily within the corporate limits of the city and as requested outside the corporate limits of the city when requested to provide automatic or mutual aid. (Ord. #22-31, _____ _____)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER
1. INTOXICATING LIQUORS
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS[2]

SECTION
8-101. Alcoholic beverages subject to regulation.
8-102. Consumption of alcoholic beverages on-premises.
8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
8-104. Annual privilege tax to be paid to the recorder.
8-105. Concurrent sales of liquor by the drink and beer.
8-106. Advertisement of alcoholic beverages.
8-107. Violations and penalty.

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by *Tennessee Code Annotated*, title 57. (Ord. #23-46, Feb. 2023)

8-102. Consumption of alcoholic beverages on-premises. *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Niota, Tennessee. It is the intent of the City Mayor and Board of Commissioners that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in the City of Niota, the same as if said code sections were copied herein verbatim. (Ord. #23-46, Feb. 2023)

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[1]State law reference
Employee and server permits: *Tennessee Code Annotated*, § 57-3-701, *et seq.*

[2]Municipal code references
Minors in beer p laces, etc.: title 11, chapter 1.

8-103. <u>Privilege tax on retail sale of alcoholic beverages for consumption on the premises</u>. Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by *Tennessee Code Annotated*, title 57, chapter 4, section 301,) for the City of Niota, to be paid annually as provided in the chapter, upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Niota of alcoholic beverages for consumption on the premises where sold. (Ord. #23-46, Feb. 2023)

8-104. <u>Annual privilege tax to be paid to the recorder</u>. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Niota shall remit annually to the recorder the appropriate tax described in § 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (Ord. #23-46, Feb. 2023)

8-105. <u>Concurrent sales of liquor by the drink and beer</u>. Any person, firm, corporation, joint stock company, syndicate, or association which has received a license to sell alcoholic beverages in the City of Niota, pursuant to *Tennessee Code Annotated, title 57*, chapter 4, shall, notwithstanding § 8-217 of the ordinances of the City of Niota, qualify to receive a beer permit from the city upon compliance of all Niota beer permit requirements. (Ord. #23-46, Feb. 2023)

8-106. <u>Advertisement of alcoholic beverages</u>. All advertisement of the availability of liquor for sale by those licensed pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission. (Ord. #23-46, Feb. 2023)

8-107. <u>Violations and penalty</u>. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (Ord. #23-46, Feb. 2023)

CHAPTER 2

BEER

SECTION

8-**201. Beer board established.** There is hereby established a beer board to be composed of the mayor and board of commissioners. (Ord. #23-46, Feb. 2023)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a adequate notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #23-46, Feb. 2023)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; names of the board members present and absent; 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. (Ord. #23-46, Feb. 2023)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #23-46, Feb. 2023)

8-205. Powers and duties of the beer board.[1] The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (Ord. #23-46, Feb. 2023)

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101. (Ord. #23-46, Feb. 2023)

8-207. Permit required for engaging in beer business.[2] (1) 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.

(2) After the effective date of this section, each applicant for a beer permit must be at least twenty-one (21) years of age.

(3) The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars ($250.00). Said fee shall be in the form of a cashier's check payable to the City of Niota.

(4) Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (Ord. #23-46, Feb. 2023)

8-208. Privilege tax.[3] There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars ($100. 00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or

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

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

[3]State law reference
Tennessee Code Annotated, § 5-5-104(b)

manufacture of beer shall remit the tax 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. (Ord. #23-46, Feb. 2023)

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.[1] (Ord. #23-46, Feb. 2023)

8-210. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with 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 manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, church, or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit

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[1]State law reference

Tennessee Code Annotated, § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under *Tennessee Code Annotated*, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under *Tennessee Code Annotated*, § 16-18-302, city courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus prohibited from enforcing ordinances making violations of *Tennessee Code Annotated*,§ 57-5-301(a) a local offense.

had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (Ord. #23-46, Feb. 2023)

8-211. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

(1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.[1]

(2) Make or allow the sale of beer between the hours of 12:00 midnight and 6:00 A.M. on weekdays and between the hours of 12:00 midnight Saturday and 12:00 noon on Sunday.[2]

(3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.[3]

(4) Make or allow any sale of beer to any intoxicated person or to any feebleminded, insane, or otherwise mentally incapacitated person.

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

(6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer. (Ord. #23-46, Feb. 2023)

8-212. Curbside sale of beer. Pursuant to *Tennessee Code Annotated*, § 57-5-103, the authorization of beer permit holders to sell beer on line for curbside pickup at the permit holder's location requires purchased beer to be delivered to the customer's vehicle and the vehicle to be located within a paved parking area adjacent to the place of business. Beer sold through an on line curbside pickup service shall be required to be pulled from the inventory located at the permitted location of the retailer providing the service. Any employee bringing beer to a vehicle for on line curbside pickup must confirm the individual receiving the beer is at least twenty-one (21) years of age. (Ord. #23-46, Feb. 2023)

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[1]State law reference

Tennessee Code Annotated, § 1-3-113.

[2]State law reference

Tennessee Code Annotated, § 57-5-106(a), for cities with liquor by the drink, the Alcoholic Beverage Commission sets the hours of operation, which may only be modified by ordinance to reduce hours on Sundays under Tennessee Compilation Rules and Regulations § 0100-01-.03(2).

[3]State law reference

Tennessee Code Annotated, § 57-5-106(a).

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

Pursuant to *Tennessee Code Annotated*, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of *Tennessee Code Annotated*, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under *Tennessee Code Annotated*, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (Ord. #23-46, Feb. 2023)

8-214. 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*, § 57-5-601, *et seq*.

(2) Penalty, revocation or suspension.[1] 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.

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[1]State law reference

Tennessee Code Annotated, § 57-5-108(2).

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. (Ord. #23-46, Feb. 2023)

8-215. Loss of clerk's certification for sale to minor.[1] 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. (Ord. #23-46, Feb. 2023)

8-216. Violations and penalty. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (Ord. #23-46, Feb. 2023)

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[1]State law reference
Tennessee Code Annotated, § 57-5-607.

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.[2]

SECTION

9-101. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the city, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to

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

[2]Municipal code references
Privilege taxes: title 5.
Trespass by peddlers, etc.: § 11-501.

street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the city or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization. No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

(a) Has a current exemption certificate from the Internal Revenue Service issued under section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended.

(b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations.

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

(4) "Solicitor for subscriptions" means any person who solicits subscriptions from the public, either on the streets of the city, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(5) "Transient vendor[1]" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part

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[1]State law references

Tennessee Code Annotated, § 62-30-101, *et seq*. contains permit requirements for "transitory vendors."

The definition of "transient vendors" is taken from *Tennessee Code Annotated*, § 62-30-101(3). Note also that *Tennessee Code Annotated*, § 67-4-710(a)(2) prescribes that transient vendors shall pay a tax of $50.00 in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in *Tennessee Code Annotated*, § 67-4-709.

of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

9-102. Exemptions. The terms of this chapter shall neither apply 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.

9-103. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor or solicitor, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter.

9-104. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the recorder by each applicant for a permit as a peddler, transient vendor or solicitor, and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

(a) The complete name and permanent address of the business or organization the applicant represents.

(b) A brief description of the type of business and the goods to be sold.

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

(d) The names and permanent addresses of each person who will make sales or solicitations within the city.

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.

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

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor or solicitor shall submit with his application a nonrefundable fee of twenty dollars ($20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the recorder shall issue a permit and provide a copy of the same to the applicant.

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the recorder, the recorder shall submit to the chief of police a copy of the application form and the permit.

9-105. Restrictions on peddlers and solicitors. No peddler, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

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

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

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

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise.

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-107. Display of permit. Each peddler, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

9-108. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the recorder for any of the following causes:

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the

hearing for suspension or revocation of a permit shall be given by the recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder 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.

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days.

9-110. Violations and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

TITLE 10

ANIMAL CONTROL[1]

CHAPTER

CHAPTER 1

IN GENERAL

SECTION

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

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

10-102. Keeping near a residence or business restricted. Swine are prohibited within the corporate limits. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street, as measured in a straight line.

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.

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[1]Wherever this title mentions dogs it pertains to dogs and cats.

10-104. Storage of food. All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle.

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.

10-106. 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 any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. 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.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance.

10-107. Violations and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

CHAPTER 2

DOGS AND CATS

SECTION

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (*Tennessee Code Annotated*, §§ 68-8-101 to 68-8-113) or other applicable law.

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

10-203. Running at large prohibited.[1] 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.

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

10-204. Vicious dogs.[2] (1) Definition of terms: (a) "Owner" means any person, firm, corporation, organization or department possessing or

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[1]State law reference
Tennessee Code Annotated, § 68-8-107.

[2]See cases stating the state's authority to regulate vicious dogs: *State of Tennessee v. Denver Hartly*, 15 TAM 23-2 (Tenn. S. Ct. 1990), and *Darnell v. Shappard*, 3 S.W.2d 661 (1928).

harboring or having the care or custody of a dog, or the parents or guardian of a child claiming ownership.

(b) "Vicious dog" means:

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

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

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

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

(c) A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

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

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

(4) Signs. The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(5) Dog fighting. No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.

(6) Insurance. Owners of vicious dogs must within thirty (30) days of the effective date of this section provide proof to the city clerk of public liability

insurance in the amount of at least one hundred thousand dollars ($100,000.00), insuring the owner for any personal injuries inflicted by his or her vicious dog.

(7) Penalties. Whoever violates any provision of this section shall be guilty of a gross misdemeanor and may be punished by a fine of not less than ten dollars ($10.00) and not more than fifty dollars ($50.00). The conviction of any owner of three (3) or more offenses under this chapter for any dog during one (1) calendar year shall require a confiscation and forfeiture of that animal based on the danger and incorrigibility of owner and animal. Failure to abide by a lawful order of forfeiture is punishable by contempt.

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

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

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the dog is wearing a tag or found to be implanted with a microchip, the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed 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 has a tag evidencing such vaccination placed on its collar.

Any new owner adopting a dog that has not been spayed or neutered must pay a twenty-five dollar ($25.00) deposit before a dog may be released, as required by the Tennessee Spay/Neuter Law.[1]

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[1]State law reference

Tennessee Code Annotated, § 44-17-501, *et seq*., "The Tennessee Spay/Neuter Law," prohibits persons from adopting a dog or cat from an agency (pound, animal shelter, etc.) operated by a municipality unless the dog or cat was already spayed or neutered, was spayed or

(continued...)

10-208. Destruction of vicious or infected dogs running at large. 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 any policeman or other properly designated officer.[1]

10-209. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

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[1](...continued)
neutered while in the custody of the agency, or the new owner signs a written agreement to have the animal spayed or neutered within 30 days of the adoption if the animal is sexually mature, or within 30 days after the animal reaches six (6) months of age if it is not sexually mature.

Before an agency may release an animal which has not been spayed or neutered it must collect a twenty-five dollar ($25.00) deposit from the new owner to ensure compliance with the law. If the new owner does not comply with the law, the deposit is forfeited and the agency may file a petition in court to force the new owner to either comply with the law or return the animal.

An agency may not spay or neuter a dog or cat that is returned to its original owner within seven (7) days of its being taken into custody by the agency.

[1]State law reference
Tennessee Code Annotated, § 44-17-301, *et seq*.

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

CHAPTER 1

ALCOHOL[2]

SECTION

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. (1994 Code, § 11-101)

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

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

11-102. Minors in beer places. No person under the age of twenty-one (21) shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1994 Code, § 11-102)

11-103. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous or offensive conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1994 Code, § 11-301, modified)

11-202. Anti-noise regulations. Subject to the provisions of this section the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

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

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

(g) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section, or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on 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.

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

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

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

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

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

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

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day. (1994 Code, § 11-302, modified)

CHAPTER 3

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-301. 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. (1994 Code, § 11-401)

11-302. 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. (1994 Code, § 11-402)

11-303. 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. (1994 Code, § 11-403)

11-304. 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. (1994 Code, § 11-404)

11-305. 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. (1994 Code, § 11-405)

CHAPTER 4

FIREARMS, WEAPONS AND MISSILES

SECTION

11-401. 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. (1994 Code, § 11-501)

11-402. 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. (1994 Code, § 11-502)

11-403. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits, unless in self defense. (1994 Code, § 11-503, modified)

CHAPTER 5

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

11-501. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall 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. (1994 Code, § 11-601)

11-502. 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. (1994 Code, § 11-603)

CHAPTER 6

LITTERING

SECTION

11-601. Definition. As used in this chapter, unless the context otherwise requires:

(1) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;

(2) "Litter" includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in *Tennessee Code Annotated*, § 39-17-1503(11) and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked.

(3) "Refuse" includes all putrescible and nonputrescible solid waste; and

(4) "Rubbish" includes nonputrescible solid waste consisting of both combustible and non-combustible waste.

11-602. Littering offenses. (1) A person commits the civil offense of littering who:

(a) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it;

(b) Negligently places or throws glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50') of a public highway; or

(c) Negligently discharges sewage, minerals, oil products or litter into any public waters or lakes within this state.

(2) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the city/town judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.

(3) Whenever litter discovered on public or private property is found to contain any article or articles, including, but not limited to, letters, bills, publications, or other writings that display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, the city/town judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that such person has committed littering.

11-603. Scope of regulation. The regulation of litter in this chapter is limited to amounts of litter less than or equal to five pounds (5 lbs.) in weight or seven and one-half (7.5) cubic feet in volume.[1]

11-604. Violations and penalty. Littering is a civil offense punishable by a penalty under the general penalty provision of this code.

[1]State law reference
Tennessee Code Annotated, § 39-14-503.

CHAPTER 7

MISCELLANEOUS

SECTION

11-701. 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. (1994 Code, § 11-702)

11-702. 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; and

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

(5) By mandate, or personal preference, to prevent the spread of illness. (1994 Code, § 11-705, modified)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

CHAPTER 1

BUILDING CODE[1]

SECTION

12-101. Building code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the *International Building Code*,[2] 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as

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

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

a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the building code. (modified, as amended by Ord. #23-50, March 2023)

12-102. Modifications. The following sections are hereby revised to read as follows:

(1) Definitions. Whenever the words "Building Official" are used in the building code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the building code.

(2) *International Building Code*, 2018 edition, section 101.1 Insert: City of Niota.

(3) *International Building Code*, 2018 edition, section 1612.3 Insert: City of Niota.

(4) *International Building Code*, 2018 edition, section 1612.3 Insert: Date of Issuance.

(5) *International Building Code*, 2018 edition, section 1613 through section 1616.3, and all sections derived from chapter 16 and any other sections relating to SEISMIC Standards, regulations and provisions are hereby deleted. (as amended by Ord. #23-50, March 2023)

12-103. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

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 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.

CHAPTER 2

PLUMBING CODE[1]

SECTION

12-201. Plumbing code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the *International Plumbing Code*,[2] 2018, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the plumbing code. (as amended by Ord. #23-50, March 2023)

12-202. Modifications. The following sections are hereby revised to read as follows:

Definitions. Whenever the words "Building Official" are used in the plumbing code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the plumbing code.

12-203. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

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[1]Municipal code references
Cross-connections: title 18.
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.

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

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. 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.

CHAPTER 3

FUEL GAS CODE

SECTION

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

(1) "Building official" shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the gas code.

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

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

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

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

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

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

Code,[1] 2018 edition, is hereby adopted and incorporated by reference and made a part of this chapter as if fully set forth herein and shall be referred to as the gas code. (as amended by Ord. #23-50, March 2023)

12-303. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the gas code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-304. Use of existing piping and appliances. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code.

12-305. Bond and license. (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the mayor a good and sufficient bond in the penal sum of ten thousand dollars ($10,000.00), with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the recorder, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

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

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work on his own premises; provided, however, all such work must be done in

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

conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees.

12-306. Gas inspector and assistants. To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the board of mayor and aldermen.

12-307. Powers and duties of inspector. (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

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

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

12-308. Permits. (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the mayor; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

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

(3) Except when work in a public street or other public way is involved the gas company shall not be required to obtain permits to set meters, or to

extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system.

12-309. Inspections. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

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

12-310. Certificates. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service.

12-311. Fees. There shall be charged a fee of three dollars ($3.00) for each gas permit issued. This fee shall include the costs of one inspection to be made by the gas inspector. Should additional inspections be necessary, there shall be an added charge of one dollar ($1.00) for each such inspection.

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

12-313. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable under the general penalty provision of this code, or the license of such person may be revoked, or both fine and revocation of license may be

imposed. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 4

RESIDENTIAL CODE

SECTION

12-401. Residential code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the *International Residential Code*,[1] 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the residential code. (as amended by Ord. #23-50, March 2023)

12-402. Modifications. The following sections are hereby revised to read as follows:

(1) Definitions. Whenever the words "Building Official" are used in the residential code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the residential code.

(2) *International Residential Code*, 2018 edition, section R313.1 regarding automatic sprinkler systems in townhouses, replace the existing exception; "An automatic residential fire sprinkler system shall not be required if a two-hour fire resistance rated wall exists between units, provided that walls do not contain plumbing and /or mechanical equipment, ducts, or vents in common wall.

(3) Delete *International Residential Code*, 2018 edition, section R313.2 automatic sprinkler systems in 1 and 2 family dwellings. (as amended by Ord. #23-50, March 2023)

12-403. Available in recorder's office. Pursuant to the requirements of *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.

12-404. 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

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

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.

CHAPTER 5

ENERGY CONSERVATION CODE[1]

SECTION

12-501. Energy conservation code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the *International Energy Conservation Code*,[2] 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the energy code. (as amended by Ord. #23-50, March 2023)

12-502. Modifications. The following sections are hereby revised to read as follows:

(1) Building official. Whenever in the energy code these words are used, they shall refer to the person designated by the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

(2) *International Energy Conservation*, Code 2018 edition, section R402.4.1.2 testing is deleted and replaced with section 402.4.2.1 testing option and section 402.4.2.2 visual inspection option from *International Energy Conservation*, Code, 2009 edition.

(3) *International Energy Conservation Code*, 2018 edition, section R403.3.3 duct testing and section R403.3.4 dust leakage are optional.

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

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

(4) *International Energy Conservation Code*, 2018 edition, table 42.1.2 insulation and fenestration requirements by component and table R402.1.4 equivalent U-factors are deleted and replaced with table 402.1.1 insulation and fenestration requirements by component and table 402.1.3 equivalent U-factors *International Energy Conservation Code*, 2009 edition. (as amended by Ord. #23-50, March 2023)

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

12-504. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the energy 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.

CHAPTER 6

MECHANICAL CODE[1]

SECTION

12-701. Mechanical code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the *International Mechanical Code*,[2] 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim and is hereinafter referred to as the mechanical code. (as amended by Ord. #23-50, March 2023)

12-602. Modifications. The following sections are hereby revised to read as follows:

Definitions. Whenever the words "Building Official" are used in the mechanical code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the mechanical code.

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

12-604. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted. The violation of any section of this chapter shall be punishable by a

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[1]Municipal code references
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.

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

penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 7

PROPERTY MAINTENANCE CODE

SECTION

12-701. Property maintenance code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said *International Property Maintenance Code*,[1] 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the property maintenance code. (modified)

12-702. Modifications. The following sections are hereby revised to read as follows:

(1) Definitions. Whenever the words "Building Official" are used in the property maintenance code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the property maintenance code.

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

12-704. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified. The violation of any section of this

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

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.

CHAPTER 8

EXISTING BUILDING CODE

SECTION

12-801. Existing building code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing a concise set of regulations and procedures to effect safety in occupancy, the *International Existing Building Code*,[1] 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the existing building code. (modified)

12-802. Modifications. The following sections are hereby revised to read as follows:

Definitions. Whenever the words "Building Official" are used in the existing building code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the existing building code.

12-803. Available in recorder's office Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the existing building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-804. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the existing building 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.

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

CHAPTER 9

SWIMMING POOL AND SPA CODE

SECTION

12-901. Swimming pool code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-516, and for the purpose of regulating the minimum requirements for the design, construction, alteration, repair and maintenance of swimming pools, spas, hot tubs and aquatic facilities, the *International Swimming Pool and Spa Code*,[1] 2018 edition, as prepared by the International Code Council, is hereby adopted and incorporated by reference as part of this code except as otherwise specifically stated in the chapter and is hereinafter referred to as the swimming pool code. (modified)

12-902. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the swimming pool code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-903. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the swimming pool and spa 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.

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

CHAPTER 10

ACCESSIBILITY CODE

SECTION

11-1001. Accessibility code adopted. The *American National Standard, Accessible and Usable Building and Facilities Code (ICC/ANSI A1 17.1-2017)*,[1] is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the accessibility code. (Ord. #23-50, March 2023)

11-1002. Modifications. The following sections are hereby revised to read as follows:

Definitions. Whenever the words "Building Official" are used in the accessibility code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the accessibility code.

11-1003. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the accessibility code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

11-1004. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the accessibility code as herein adopted by reference and modified. 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.

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

CHAPTER 11

ADMINISTRATIVE HEARING OFFICER

SECTION

12-1101. Municipal administrative hearing officer. (1) In accordance with *Tennessee Code Annotated*, title 6, chapter 54, §§ 1001, *et seq*., there is hereby created the Niota Municipal Office of Administrative Hearing Officer to hear violations of any of the provisions codified in the Niota Municipal Code relating to building and property maintenance including:

(a) Building codes adopted by the City;
(b) All residential codes adopted by the City;
(c) All plumbing codes adopted by the City;
(d) All electrical codes adopted by the City;
(e) All gas codes adopted by the City;
(f) All mechanical codes adopted by the City;
(g) All energy codes adopted by the City;
(h) All property maintenance codes adopted by the City; and
(i) All ordinances regulating any subject matter commonly found in the above described codes.

The administrative hearing officer is not authorized to hear violation of codes adopted by the state fire marshal pursuant to *Tennessee Code Annotated,* § 68-120-101(a) enforced by deputy building inspector pursuant to *Tennessee Code Annotated*, § 68-120-101(f).

The utilization of the administrative hearing officer shall be at the discretion of the city manager and/or the city manager's designee and/or the chief building official of the city, and shall be an alternative to the enforcement included in the Niota Municipal Code.

(2) There is hereby created one (1) administrative hearing officer position to be appointed by the city commission pursuant to § 12-1105 below.

(3) The amount of compensation for the administrative hearing officer shall be approved by the mayor and commission.

(4) Clerical and administrative support for the office of administrative hearing officer shall be provided as determined by the mayor and commission.

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in *Tennessee Code Annotated*, title 6, chapter 54, §§ 1001, *et seq*. (modified)

12-1102. Communication by administrative hearing officer and parties. (1) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative hearing officer presiding over a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.

(2) Notwithstanding subsection (1) above, an administrative hearing officer may communicate with municipal employees or officials regarding a matter pending before the administrative body or may receive aid from staff assistants, members of the staff of the city attorney or a licensed attorney, if such persons do not receive ex parte communications of a type that the administrative hearing officer would be prohibited from receiving, and do not furnish, augment, diminish or modify the evidence in the record.

(3) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to a contested case, and no other person may communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as an administrative hearing officer without notice and opportunity for all parties to participate in the communication.

(4) If, before serving as an administrative hearing officer in a contested case, a person receives an ex parte communication of a type that may not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (5) below.

(5) An administrative hearing officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person

from whom the person received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) business days after notice of the communication.

12-1103. Appearance by parties and/or counsel. (1) Any party may participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, unless prohibited by any provision of law, other representative.

12-1104. Pre-hearing conference and orders. (1) (a) In any action set for hearing, the administrative hearing officer, upon the administrative hearing officer's own motion, or upon motion of one (1) of the parties or such party's qualified representatives, may direct the parties or the attorneys for the parties, or both, to appear before the administrative hearing officer for a conference to consider:

(i) The simplification of issues;

(ii) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;

(iii) The limitation of the number of witnesses; and

(iv) Such other matters as may aid in the disposition of the action.

(b) The administrative hearing officer shall make an order that recites the action taken at the conference, and the agreements made by the parties as to any of the matters considered, and that limits the issues for hearing to those not disposed of by admissions or agreements of the parties. Such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.

(2) Upon reasonable notice to all parties, the administrative hearing officer may convene a hearing or convert a pre-hearing conference to a hearing, to be conducted by the administrative hearing officer sitting alone, to consider argument or evidence, or both, on any question of law.

(3) In the discretion of the administrative hearing officer, all or part of the pre-hearing conference may be conducted by telephone, television or other electronic means, if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(4) If a pre-hearing conference is not held, the administrative hearing officer may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings.

12-1105. Appointment of administrative hearing officer/ administrative law judge. (1) The administrative hearing officer shall be appointed by the mayor and commission for a four (4) year term and serve at the pleasure of the mayor and commission. Such administrative hearing officer may be reappointed.

(2) An administrative hearing officer shall be one (1) of the following:

(a) Licensed building inspector;

(b) Licensed plumbing inspector;

(c) Licensed electrical inspector;

(d) Licensed attorney;

(e) Licensed architect; or

(f) Licensed engineer.

(3) The city may also contract with the administrative procedures division, office of the Tennessee Secretary of State to employ an administrative law judge on a temporary basis to serve as an administrative hearing officer. Such administrative law judge shall not be subject to the requirements of subsections 6-54-1007(a) and (b). (modified)

12-1106. Training and continuing education. (1) Each person appointed to serve as an administrative hearing officer shall, within the six (6) month period immediately following the date of such appointment, participate in a program of training conducted by the University of Tennessee's Municipal Technical Advisory Service, referred to in this part as MTAS. MTAS shall issue a certificate of participation to each person whose attendance is satisfactory. The curricula for the initial training shall be developed by MTAS with input from the administrative procedures division, office of the Tennessee Secretary of State. MTAS shall offer this program of training no less than twice per calendar year.

(2) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. MTAS developed the continuing education curricula and offers that curricula for credit no less than twice per calendar year. The education required by this section shall be in addition to any other continuing education requirements required for other professional licenses held by the individuals licensed under this part. No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year.

(3) MTAS has the authority to set and enact appropriate fees for the requirements of this section. The city shall bear the cost of the fees for the administrative hearing officer serving the city.

(4) Costs pursuant to this section shall be offset by fees enacted.

12-1107. Citations for violations; written notice. (1) Upon the issuance of a citation for violation of a municipal ordinance referenced in the city's administrative hearing ordinance, the issuing officer shall provide written notice of:

(a) A short and plain statement of the matters asserted. If the issuing officer is unable to state the matters in detail at the time the citation is served, the initial notice may be limited to a statement of the issues involved and the ordinance violations alleged. Thereafter, upon timely, written application, a more definite and detailed statement shall be furnished ten (10) business days prior to the time set for the hearing;

(b) A short and plain description of the city's administrative hearing process including references to state and local statutory authority;

(c) Contact information for the city's administrative hearing office; and

(d) Time frame in which the hearing officer will review the citation and determine the fine and remedial period, if any.

(2) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be signed by the alleged violator at the time of issuance. If an alleged violator refuses to sign, the issuing officer shall note the refusal and attest to the alleged violator's receipt of the citation. An alleged violator's signature on a citation is not admission of guilt.

(3) Citations issued upon absentee property owners may be served via certified mail sent to the last known address of the recorded owner of the property.

(4) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be transmitted to an administrative hearing officer within two (2) business days of issuance.

12-1108. Review of citation; levy of fines. (1) Upon receipt of a citation issued pursuant to § 12-607, an administrative hearing officer shall, within seven (7) business days of receipt, review the appropriateness of an alleged violation. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine upon the alleged violator in accordance with this section. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances.

(a) For violations occurring upon residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars ($500.00) per violation. For purposes of this section, "residential property" means a single-family dwelling principally used as the property owner's primary residence and the real property upon which it sits.

(b) For violations occurring upon non-residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars ($500.00) per violation per day. For purposes of this part, "non-residential property" means all real property, structures, buildings and dwellings that are not residential property.

(2) If a fine is levied pursuant to subsection (1) above, the hearing officer shall set a reasonable period of time to allow the alleged violator to remedy the violation alleged in the citation before the fine is imposed. The remedial period shall be no less than ten (10) nor greater than one hundred twenty (120) calendar days, except where failure to remedy the alleged violation in less than ten (10) calendar days would pose an imminent threat to the health, safety or welfare of persons or property in the adjacent area.

(3) Upon the levy of a fine pursuant to subsection (a), the hearing officer shall within seven (7) business days, provide via certified mail notice to the alleged violator of:

(a) The fine and remedial period established pursuant to subsections (1) and (2) above;

(b) A statement of the time, place, nature of the hearing, and the right to be represented by counsel; and

(c) A statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the statutes and rules involved.

(4) The date of the hearing shall be no less than thirty (30) calendar days following the issuance of the citation. To confirm the hearing, the alleged violator must make a written request for the hearing to the hearing officer within seven (7) business days of receipt of the notice required in subsection (3).

(5) If an alleged violator demonstrates to the issuing officer's satisfaction that the allegations contained in the citation have been remedied to the issuing officer's satisfaction, the fine levied pursuant to subsection (1) shall not be imposed or if already imposed cease; and the hearing date, if the hearing has not yet occurred, shall be cancelled.

12-1109. Party in default. (1) If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative hearing officer may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.

(2) If the proceedings are conducted without the participation of the party in default, the administrative hearing officer shall include in the final order a written notice of default and a written statement of the grounds for the default.

12-1110. Petitions for intervention. (1) The administrative hearing officer shall grant one (1) or more petitions for intervention if:

(a) The petition is submitted in writing to the administrative hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) business days before the hearing;

(b) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(c) The administrative hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

(2) If a petitioner qualifies for intervention, the administrative hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervener's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;

(b) Limiting the intervener's participation so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two (2) or more intervenors to combine their participation in the proceedings.

(3) The administrative hearing officer, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative hearing officer may modify the order at any time, stating the reasons for the modification. The administrative hearing officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties.

12-1111. Regulating course of proceedings; hearing open to public. (1) The administrative hearing officer shall regulate the course of the proceedings, in conformity with the pre-hearing order, if any.

(2) To the extent necessary for full disclosure of all relevant facts and issues, the administrative hearing officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the pre-hearing order.

(3) In the discretion of the administrative hearing officer and by agreement of the parties, all or part of the hearing may be conducted by telephone, television or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place.

(4) The hearing shall be open to public observation pursuant to *Tennessee Code Annotated*, title 8, chapter 44, unless otherwise provided by state or federal law. To the extent that a hearing is conducted by telephone, television or other electronic means, the availability of public observation shall

be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript produced, if any.

12-1112. Evidence and affidavits. (1) In administrative hearings:

(a) The administrative hearing officer shall admit and give probative effect to evidence admissible in a court, and when necessary to ascertain facts not reasonably susceptible to proof under the rules of court, evidence not admissible thereunder may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The administrative hearing officer shall give effect to the rules of privilege recognized by law and to statutes protecting the confidentiality of certain records, and shall exclude evidence which in his or her judgment is irrelevant, immaterial or unduly repetitious.

(b) At any time not less than ten (10) business days prior to a hearing or a continued hearing, any party shall deliver to the opposing party a copy of any affidavit such party proposes to introduce in evidence, together with a notice in the form provided in subsection (2). Unless the opposing party, within seven (7) business days after delivery, delivers to the proponent a request to cross-examine an affiant, the opposing party's right to cross examination of such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after a proper request is made as provided in this subsection (1)(b), the affidavit shall not be admitted into evidence. "Delivery," for purposes of this section, means actual receipt.

(c) The administrative hearing officer may admit affidavits not submitted in accordance with this section where necessary to prevent injustice.

(d) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the municipality. Upon request, parties shall be given an opportunity to compare the copy with the original, if reasonably available.

(e) (i) Official notice may be taken of:

(A) Any fact that could be judicially noticed in the courts of this state;

(B) The record of other proceedings before the agency; or

(C) Technical or scientific matters within the administrative hearing officer's specialized knowledge.

(ii) Parties must be notified before or during the hearing, or before the issuance of any final order that is based in whole or in part on facts or material notice, of the specific facts or material noticed and the source thereof, including any staff memoranda and

data, and be afforded an opportunity to contest and rebut the facts or material so noticed.

(2) The notice referred to in subdivision (1)(b) shall contain the following information and be substantially in the following form:

> The accompanying affidavit of _____(here insert name of affiant) will be introduced as evidence at the hearing in _____ (here insert title of proceeding) _____ (here insert name of affiant) will not be called to testify orally and you will not be entitled to question such affiant unless you notify _____ (here insert name of the proponent or the proponent's attorney) at _____(here insert address) that you wish to cross-examine such affiant. To be effective, your request must be mailed or delivered to _____ (here insert name of proponent or the proponents attorney) on or before _____ (here insert a date seven (7) business days after the date of mailing or delivering the affidavit to the opposing party).

12-1113. Rendering of final order. (1) An administrative hearing officer shall render a final order in all cases brought before his or her body.

(2) A final order shall include conclusions of law, the policy reasons therefor, and findings of fact for all aspects of the order, including the remedy prescribed. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. The final order must also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief and the time limits for seeking judicial review of the final order.

(3) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. The administrative hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.

(4) If an individual serving or designated to serve as an administrative hearing officer becomes unavailable, for any reason, before rendition of the final order, a qualified substitute shall be appointed. The substitute shall use any existing record and may conduct any further proceedings as is appropriate in the interest of justice.

(5) The administrative hearing officer may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.

(6) A final order rendered pursuant to subsection (1) above shall be rendered in writing within seven (7) business days after conclusion of the hearing or after submission of proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.

(7) The administrative hearing officer shall cause copies of the final order under subsection (1) to be delivered to each party.

12-1114. Final order effective date. (1) All final orders shall state when the order is entered and effective.

(2) A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order.

12-1115. Collection of fines, judgments and debts. The city may collect a fine levied pursuant to this section by any legal means available to a municipality to collect any other fine, judgment or debt.

12-1116. Judicial review of final order. (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter, which shall be the only available method of judicial review.

(2) Proceedings for judicial review of a final order are instituted by filing a petition for review in the chancery court in the county where the municipality lies. Such petition must be filed within sixty (60) calendar days after the entry of the final order that is the subject of the review.

(3) The filing of the petition for review does not itself stay enforcement of the final order. The reviewing court may order a stay on appropriate terms, but if it is shown to the satisfaction of the reviewing court, in a hearing that shall be held within ten (10) business days of a request for hearing by either party, that any party or the public at large may suffer injury by reason of the granting of a stay, then no stay shall be granted until a good and sufficient bond, in an amount fixed and approved by the court, shall be given by the petitioner conditioned to indemnify the other persons who might be so injured and if no bond amount is sufficient, the stay shall be denied.

(4) Within forty-five (45) calendar days after service of the petition, or within further time allowed by the court, the administrative hearing officer shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all the parties of the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the record.

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the administrative proceeding, the court may order that the additional evidence be taken before the administrative hearing officer upon conditions determined by the court. The administrative hearing officer may modify its findings and decision by reason of the additional evidence and

shall file that evidence and any modifications, new findings or decisions with the reviewing court.

(6) The procedure ordinarily followed in the reviewing court will be followed in the review of contested cases decided by the administrative hearing officer, except as otherwise provided in this chapter. The administrative hearing officer that issued the decision to be reviewed is not required to file a responsive pleading.

(7) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the administrative hearing officer, not shown in the record, proof thereon may be taken in the court.

(8) The court may affirm the decision of the administrative hearing officer or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

(a) In violation of constitutional or statutory provisions;

(b) In excess of the statutory authority of the administrative hearing officer;

(c) Made upon unlawful procedure;

(d) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

(e) Unsupported by evidence that is both substantial and material in the light of the entire record. In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the administrative hearing officer as to the weight of the evidence on questions of fact.

(9) No administrative hearing decision pursuant to a hearing shall be reversed, remanded or modified by the reviewing court unless for errors that affect the merits of such decision.

(10) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record.

12-1117. <u>Appeal to court of appeals</u>. (1) An aggrieved party may obtain a review of any final judgment of the chancery court under this chapter by appeal to the court of appeals of Tennessee.

(2) The record certified to the chancery court and the record in the chancery court shall constitute the record in an appeal. Evidence taken in court pursuant to *Tennessee Code Annotated*, title 24 shall become a part of the record.

(3) The procedure on appeal shall be governed by the Tennessee Rules of Appellate Procedure.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

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

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

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

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[1]Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.
Toilet facilities in beer places: § 8-112(11).

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, it shall be unlawful for any owner of 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, items determined to be distasteful blight, or visually detrimental to the city image by the mayor and board of commissioners, this is to include, but not be limited to, appliances, indoor fixtures, and furniture intended for inside use, trash, litter, or garbage or any other 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. Citizens may request a waiver through the mayor and board of commissioners on questionable items.

(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. If no valid last known address exists for the owner of record, the city may publish the notice in a newspaper of general circulation in the county for two (2) consecutive issues, or personally deliver notice to owner. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the 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 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 costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. 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 costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, 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 accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars ($500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

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

(7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (4) above may seek judicial

review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

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

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. (modified)

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.

13-107. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

SLUM CLEARANCE[1]

SECTION

13-201. Findings of board. Pursuant to *Tennessee Code Annotated*, § 13-21-101, *et seq*., the board of mayor and aldermen finds that there exists in the 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.

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

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

(3) "Municipality" shall mean the City of Niota, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

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

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[1]State law reference
Tennessee Code Annotated, title 13, chapter 21.

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

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to *Tennessee Code Annotated*, § 13-21-101, *et seq*.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the such officer as the board of commissioners of the city shall appoint, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector.

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the 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.

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation

or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

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

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

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, 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 as set forth in *Tennessee Code Annotated*, § 67-5-2010 and § 67-5-2410. In

addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer 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 to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Niota to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of 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; or uncleanliness.

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city, or , in the absence of such newspaper, one (1) printed and published in the county and circulating in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of McMinn County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit,

issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

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

13-212. 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.

13-213. 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.

13-214. 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 under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

JUNKYARDS[1,2]

SECTION

13-301. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

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

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

(4) "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.

(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.

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[1]Municipal code reference
Refuse and trash disposal: title 17.

[2]State law reference
Tennessee Code Annotated, § 7-51-701.

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter.

13-303. Screening methods. The following methods and materials for screening are given for consideration only:

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

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

(3) Architectural barriers. The utilization of:

(a) Panel fences made of metal, plastic, fiberglass, or plywood.

(b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative.

(c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

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

13-304. 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.

13-305. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased 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 may replace said screening and require payment upon demand.

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition.

13-307. Non-conforming junkyards. Those junkyards within the city and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming." Such junkyards shall be subject to the following conditions, any violation of which shall terminate the non-conforming status:

(1) The junkyard must continue to be lawfully maintained.

(2) There must be existing property rights in the junk or junkyard.

(3) Abandoned junkyards shall no longer be lawful.

(4) The location of the junkyard may not be 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.

13-308. Permits and fees. It shall be unlawful for any junkyard located within the city to operate without a "junkyard control permit" issued by the city.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The city's'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.

13-309. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 4

JUNKED MOTOR VEHICLES

SECTION

13-401. 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) "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 upon the public streets and highways 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.

(b) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

13-402. <u>Violations a civil offense</u>. 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, maintain on private property a junk vehicle.

13-403. <u>Exceptions</u>. (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.

13-404. Enforcement. Pursuant to *Tennessee Code Annotated*, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this ordinance on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked 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 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.

13-405. Violations and penalty. 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. In addition, pursuant to *Tennessee Code Annotated*, § 55-5-122, the municipal court may issue an order to remove vehicles from private property. Each day the violation of this chapter continues shall be considered a separate violation.

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

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 with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1994 Code, § 14-101)

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. (1994 Code, § 14-102)

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. (1994 Code, § 14-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance. Land use within the City of Niota shall be governed by the ordinance titled "Zoning Ordinance," and any amendments thereto.[1]

[1]The zoning ordinance, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

14-301. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in *Tennessee Code Annotated*, § 6-2-201 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 (maintain/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, § 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 floodprone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodprone area;

(h) To establish/maintain eligibility for participation in the NFIP.

14-302. 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.

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:

(1) Accessory structures shall only be used for parking of vehicles and storage.

(2) Accessory structures shall be designed to have low flood damage potential.

(3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(4) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(5) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

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

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.

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.

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.

Area of special flood hazard see special flood hazard area. Base Flood means the flood having a one percent 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.

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

Building see **structure.**

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.

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.

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

Erosion means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

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.

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.

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.

Existing structures see existing construction. 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).

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

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

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 or greater chance of occurrence in any given year.

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.

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.

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.

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.

Floodplain or floodprone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

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.

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.

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.

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.

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.

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.

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.

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.

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.

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

Historic structure means any structure that is:

(1) 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;

(2) 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;

(3) 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

(4) 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:

(a) By the approved Tennessee program as determined by the Secretary of the Interior or

(b) Directly by the Secretary of the Interior.

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.

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.

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.

Manufactured home means a structure, transportable in one 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 (FHBM) 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 chapter 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 creating 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:

(1) Built on a single chassis;

(2) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck;

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

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.

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.

State coordinating agency means the Tennessee Department of Economic and Community Development, 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.

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.

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.

Substantial improvement means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

(1) The appraised value of the structure prior to the start of the initial improvement, or

(2) In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

(1) 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;

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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.

Variance is a grant of relief from the requirements of this chapter.

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.

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.

14-303. 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 identified on the City of Niota, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number(s) _____, dated _____, 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 Ordinance 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 Ordinance, 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.

14-304. Administration. (1) Designation of ordinance administrator. The (Building Official/Name Position of Other Official) is hereby appointed as the administrator to implement the provisions of 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 § 14-305(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated 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 § 14-304(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 § 14-304(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 § 14-304(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.

14-305. 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, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-305(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 § 14-305(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 § 14-302). 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."

(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 § 14-302). 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 § 14-304(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 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 § 14-305(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 § 14-302).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-305(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) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), 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 (5) acres, whichever is the lesser, include within such proposals Base Flood Elevation data (see § 15-_05(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 § 14-303(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of flood waters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other 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 § 14-305(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 § 14-303(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 principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(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 § 14-303(2), 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 § 14-305(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 § 14-302). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-305(1).

(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 buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2). Within approximate A Zones, require that those subsections of § 14-305(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.

(5) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-305(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 FIRMs, 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 § 14-305(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 § 14-304(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 § 14-303(2) 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 §§ 14-304 and 14-305 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 §§ 14-304 and 14-305..

14-306. 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, two, and three years, respectively. Vacancies shall be filled for any unexpired 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 ordinance. 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 (amount) dollars 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 (number of) 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.

(iii) 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:

(A) The danger that materials may be swept onto other property to the injury of others;

(B) The danger to life and property due to flooding or erosion;

(C) The susceptibility of the proposed facility and its contents to flood damage;

(D) The importance of the services provided by the proposed facility to the community;

(E) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(F) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(G) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(H) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(I) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(J) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(iv) 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.

(v) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-306(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.

14-307. Legal status provisions. 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.

CHAPTER 4

MOBILE HOME PARKS

SECTION

14-401. Definitions. Health officer. The director of the city, county or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

Mobile home. A detached single family dwelling unit with any or all of the following characteristics:

(1) 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.

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

(3) 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, connection to utilities and the like.

Mobile home park (trailer court). The term mobile home park shall mean any plot of ground on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located.

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.

Permit (license). The permit required for trailer parks and single mobile homes. Fees charged under the license requirement are for inspection and the administration of this chapter.

14-402. Location of mobile homes. It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of the city where the mobile home is outside of any designated and licensed mobile home park after December 31, 2007. The use of a single wide mobile home other than as a residential dwelling in a licensed and approved mobile home park is prohibited.

14-403. Compliance with construction standards required. No mobile home shall be used, placed, stored or serviced by utilities within any mobile home park in the city unless it displays the appropriate decal(s) evidencing compliance with the applicable construction standards pursuant to the "Uniform Standards Code for Manufactured Homes," *Tennessee Code Annotated*, title 68, chapter 126, is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section.

14-404. Installation requirements. Mobile home installations shall comply with the "Tennessee Manufactured Home Installation Act," *Tennessee Code Annotated*, § 68-126-401, *et seq*.

14-405 Permit for mobile home park. No place or site within the city shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the city building inspector in the names 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.

14-406. 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.

14-407. Location and planning. A mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the city planning commission and city building inspector. The city planning commission and building inspector may promulgate regulations for mobile home park location and plan approval, which shall provide for adequate space, lighting, drainage, sanitary facilities, safety features, and service buildings as may be necessary to protect the public health, prevent nuisances, and provide for the convenience and welfare of the mobile home park occupants.

14-408. 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 plat so dimensioned and related as to facilitate efficient design and management.

14-409. Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is ten (10).

14-410. Minimum mobile homes space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen feet (15') of open space between mobile homes or any attachment such as a garage or porch, and at least ten feet (10') end to end spacing between trailers and any building or structure, twenty feet (20') between any trailer and property line and twenty-five feet (25') from the right-of-way of any public street or highway.

If the construction of additional rooms or covered areas is to be allowed beside the mobile homes, the mobile homes spaces shall be made wider to accommodate such construction in order to maintain the required fifteen feet (15') of open space.

The individual plot sizes for mobile home spaces shall be determined as follows:

(1) Minimum lot area of two thousand four hundred (2,400) square feet;

(2) Minimum depth with end parking of an automobile shall be equal to the length of the mobile home plus thirty feet (30');

(3) Minimum depth with side or street parking shall be equal to the length of mobile home plus fifteen feet (15'); and

(4) In no case shall the minimum width be less than forty feet (40') and the minimum depth less than sixty feet (60').

14-411. 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 express approval 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 trailer court operator to provide such treatment as is deemed necessary to maintain a safe, potable water supply. Water shall be furnished at the minimum rate of one hundred twenty-five (125) gallons per day per mobile home space. An additional water service connection shall be provided for each mobile home space, with meter for each individual trailer.

14-412. Sewage disposal. An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Every effort shall be made to dispose of the sewage through a public sewerage system. In lieu of this, a septic tank and sub-surface soil absorption system 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 seven hundred fifty (750) gallons working capacity. This size tank can accommodate a maximum of two (2) mobile homes. For each additional mobile home a such single tank, a minimum additional liquid capacity of one hundred seventy-five (175) gallons shall be provided. The sewage from no more than twelve (12) mobile homes shall be disposed of in any one (1) single tank installation. The size of such tank shall be a minimum of two thousand five hundred (2,500) gallons liquid capacity.

The amount of effective soil absorption area or 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 must be determined according to the "Percolation Test Procedures" in the Official Compilation of the Rules and Regulations of the State of Tennessee, which may be found online at http://state.tn.us/sos/rules/1200/1200-01/1200-01-06.pdf. 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.

All sewer lines shall be laid in trenches separated at least ten feet (10') horizontally from any drinking water supply line.

14-413. Refuse. The storage, collection and disposal of refuse, in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly proof, water tight and rodent proof containers. Satisfactory

container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least once per week.

14-414. 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 electrical code, and shall satisfy all requirements of the local electric service organization.

14-415. Streets. Widths of various streets within mobile home parks shall be:

One-way, with no on-street parking	11 ft.
One-way, with parallel parking on one side only	18 ft.
One-way, with parallel parking on both sides	26 ft.
Two-way, with no on-street parking	20 ft.
Two-way, with parallel parking on one side only	28 ft.
Two-way, with parallel parking on both sides	36 ft.

Streets shall have a compacted gravel base and a prime seal treatment to meet requirement of the Tennessee State Highway Department.

14-416. Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least 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 (2) car tenants and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home space. Where practical, one (1) car space shall be located on each lot and the remainder located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than ten feet (10') and a length of not less than twenty feet (20'). The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.

14-417. Buffer strip. An evergreen buffer strip shall be planted along those boundaries of the mobile home court that are adjacent to development.

14-418. License for mobile home parks. It shall be unlawful for any person or persons to maintain or operate within the corporate limits of the city, a mobile home park unless such person or persons shall first obtain a license therefor.

14-419. License fees for mobile home parks. The annual license fee for mobile home parks shall be twenty-five dollars ($25.00).

14-420. License fees for individual mobile homes. The annual license fee for each mobile home shall be ten dollars ($10.00). The fee for transfer of the license because of change of ownership or occupancy shall be five dollars ($5.00).

14-421. Application for license. (1) Mobile home parks. Application 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. Application shall be in writing and signed by the applicant and shall be accompanied with a plan 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 feet to one inch (100' to 1");

(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 adjoining land;

(h) Existing streets, utilities, easements, and water courses on and adjacent to the tract;

(i) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;

(j) Provisions for water supply, sewerage and drainage;

(k) Such information as may be required by the 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) Individual mobile homes. Application for individual mobile home licenses shall be filed with and issued by the city building inspector. Applications shall be in writing and signed by the applicant. The application shall contain the following:

(a) The name of the applicant and all people who are to reside in the mobile home;

(b) The location and description of the mobile home, make, model, and year;

(c) The state license number;

(d) Further information as may be required by the city to enable it to determine if the mobile home and site will comply with legal requirements; and

(e) The application shall be filed in triplicate.

14-422. Enforcement. It shall be the duty of the county health officer and city building inspector to enforce provisions of this chapter.

14-423. Board of appeals. The 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 planning commission for an interpretation of pertinent chapter provisions. In exercising this power of interpretation of this chapter, the planning commission may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building inspector.

14-424. 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 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.

14-425. Violations and penalty. Any person or corporation who violates the provisions of the 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 subject to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS[2]

SECTION

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[1]Municipal code reference

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

[2]State law references

Under *Tennessee Code Annotated*, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by *Tennessee Code Annotated*, § 55-10-401; failing to stop after a traffic accident, as prohibited by *Tennessee Code Annotated*, §§ 55-10-101, *et seq*.; driving while license is suspended or revoked, as prohibited by *Tennessee Code Annotated*, § 55-10-306; and drag racing, as prohibited by *Tennessee Code Annotated*, § 55-10-501.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by *Tennessee Code Annotated*, title 55, chapter 9. (1994 Code, § 15-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1994 Code, § 15-102)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1994 Code, § 15-103)

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction;

(b) When the right half of a roadway is closed to traffic while under construction or repair; or

(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. (1994 Code, § 15-104)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right-hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right-hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right-hand lane. On one-way streets, either lane may be lawfully used in the absence of markings to the contrary. (1994 Code, § 15-105)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or centerline, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1994 Code, § 15-106)

15-107. Miscellaneous traffic-control signs, etc.[1] It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

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. (1994 Code, § 15-107)

15-108. General requirements for traffic control signs, etc. Pursuant to *Tennessee Code Annotated*, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*,[2] and shall be uniform as to type and location throughout the city.

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[1]Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

[2]For the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, see the Official Compilation of the Rules and

(continued...)

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. (1994 Code, § 15-109)

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. (1994 Code, § 15-110)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1994 Code, § 15-111)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1994 Code, § 15-112)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1994 Code, § 15-113)

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[2](...continued)
Regulations of the State of Tennessee, § 1680-3-1, *et seq*.

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. (1994 Code, § 15-114)

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1994 Code, § 15-115)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve inches (12") square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1994 Code, § 15-116)

15-117. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1994 Code, § 15-117)

15-118. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law," being *Tennessee Code Annotated*, § § 55-1-101, *et. seq.,* or the "Uniform Classified Commercial Drivers License Act." (1994 Code, § 15-118, modified)

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. (1994 Code, § 15-119)

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. (1994 Code, § 15-120)

15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.), and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city/town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can

have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) (a) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(i) Except as provided in subdivisions (a)(ii)-(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 1/2") in diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Memorial Foundation, Inc..

(b) This section does not apply to persons riding:

(i) Within an enclosed cab;

(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.) and have the capacity to maintain posted highway speed limits;

(iii) Golf carts; or

(iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section.

15-122. Delivery of vehicle to unlicensed driver, etc.

(1) Definitions. (a) "Adult" shall mean any person eighteen (18) years of age or older.

(b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(e) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the City/Town of _____ unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city/town in a

reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city/town.

15-123. Go-carts. The use of go-carts shall be prohibited on public streets and alleys. (1994 Code, § 15-122)

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. (1994 Code, § 15-124)

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. (1994 Code, § 15-125)

15-126. 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) above 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. (1994 Code, § 15-127)

15-127. Compliance with financial responsibility law required.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request evidence of financial

responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" shall be defined by *Tennessee Code Annotated*, § 55-12-139:

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars ($50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge that is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected, notwithstanding any law to the contrary.

15-128. <u>Adoption of state traffic statutes</u>. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the city/town adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the city/town adopts *Tennessee Code Annotated*, § 55-4-101 through 55-4-135, §§ 55-8-181 to 55-8-193, §§ 55-8-199, 55-8-204, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-50-351 by reference as if fully set forth in this section.

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1994 Code, § 15-201)

15-202. Operation of authorized emergency vehicles.[1] (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; and exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1994 Code, § 15-202)

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[1]Municipal code reference
Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1994 Code, § 15-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or police officer. (1994 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of 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. (1994 Code, § 15-301)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1994 Code, § 15-302)

15-303. In school zones. It shall be unlawful for any person to operate or drive a motor vehicle at a rate of speed in excess of fifteen (15) miles per hour when passing a school during recess or while children are going to or leaving school during its opening or closing hours. (1994 Code, § 15-303)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality. (1994 Code, § 15-304)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.[1] (1994 Code, § 15-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway. (1994 Code, § 15-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of the intersection of the centerline of the two (2) roadways. (1994 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1994 Code, § 15-404)

15-405. U-turns. U-turns are prohibited. (1994 Code, § 15-405)

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[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

15-501. Upon approach of authorized emergency vehicles.[1] Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1994 Code, § 15-501)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1994 Code, § 15-502)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1994 Code, § 15-503)

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[1]Municipal code reference
Special privileges of emergency vehicles: title 15, chapter 2.

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately one thousand five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1994 Code, § 15-504)

15-505. At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1994 Code, § 15-506)

15-506. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go".

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution".

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop".

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow.

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized 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. (1994 Code, § 15-507)

15-507. 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. (1994 Code, § 15-508)

15-508. 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. (1994 Code, § 15-509)

15-509. <u>Stops to be signaled</u>. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,[1] except in an emergency. (1994 Code, § 15-510)

[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

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. (1994 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1994 Code, § 15-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1994 Code, § 15-603)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

(1) On a sidewalk;
(2) In front of a public or private driveway;
(3) Within an intersection or within fifteen feet (15') thereof;

(4) Within fifteen feet (15') of a fire hydrant;
(5) Within a pedestrian crosswalk;
(6) Within fifty feet (50') of a railroad crossing;
(7) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of the entrance;
(8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed;
(9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
(10) Upon any bridge; or
(11) Alongside any curb painted yellow or red by the city. (1994 Code, § 15-604)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1994 Code, § 15-605)

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. (1994 Code, § 15-606)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Issuance of traffic citations.[1] When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1994 Code, § 15-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1994 Code, § 15-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation during the hours and at a place specified in the citation. (1994 Code, § 15-703, as amended by Ord. #3-17, March 2017)

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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[1]State law reference
Tennessee Code Annotated, §§ 7-63-101, *et seq*.

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. (1994 Code, § 15-704, as amended by Ord. #3-17, March 2017)

15-705. Disposal of"abandoned motor vehicles." "Abandoned motor vehicles," as defined in *Tennessee Code Annotated*, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of *Tennessee Code Annotated*, §§ 55-16-103 through 55-16-109. (1994 Code, § 15-705)

15-706. Violations and penalty. Any violation of this chapter shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars ($50.00) for each separate offense plus court costs.

(2) Parking citations excluding handicapped parking. For parking violations excluding handicapped parking violations, the offender may, within thirty (30) days, have the charge against him disposed of by paying the city court clerk a fine of ten dollars ($10.00); providing he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days but before a warrant for his arrest is issued, his fine shall be ten dollars ($10.00). If a judicial hearing is held court cost may be assessed.

(3) Handicapped parking. Parking in a handicapped parking space shall be punished by a civil penalty of one hundred dollars ($100.00). (as amended by Ord. #3-17, March 2017)

CHAPTER 8

GOLF CARTS AND LOW SPEED VEHICLES

SECTION

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) "Low Speed Motor Vehicles (LSMVs)" means those four (4) wheeled, ATVs and recreational vehicles whose top speed exceeds twenty (20) miles per hour 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 (20) miles per hour by the operator.

(3) "Motorized carts" means those electric and gasoline-powered pleasure carts, commonly called golf carts, which do not exceed twenty (20) miles per hour. (1994 Code, § 15-801)

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 non-residents of the city. The non-resident 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.

(3) 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) above 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 driver's license. The registration fee and regulations shall be the same as those in subsections (1) and (2) above.

(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. (1994 Code, § 15-802)

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 (35) miles per hour.

(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. (1994 Code, § 15-803)

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. (1994 Code, § 15-804)

15-805. Violations and penalty. (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. (1994 Code, § 15-805)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials.

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8').

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection.

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.[1]

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign.

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 law.

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.

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 or public easement.

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk.

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder.

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any

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[1]Municipal code reference
Building code: title 12, chapter 1.

vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section.

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk.

16-113. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 2

EXCAVATIONS

SECTION

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

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 to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing.

16-203. Fee. The fee for such permits shall be fifty dollars ($50.00).

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 five hundred dollars ($500.00) if no pavement is involved or one thousand dollars ($1,000.00) 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, after consultation with public works or an engineer, increase the amount of the deposit to an amount considered to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the 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.

16-205. Safety restrictions on excavations. 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.

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore the street, alley, or public place to its original condition except for the surfacing, which shall be done by the city but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel.

16-207. 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 three hundred thousand dollars ($300,000.00) for each person, and not less than seven hundred thousand dollars ($700,000.00) for each accident, and for property damages not less than one hundred thousand dollars ($100,000.00) for each accident.

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.

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

16-210. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense.

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER

CHAPTER 1

REFUSE

SECTION

17-101. Refuse defined. "Refuse" means and includes 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. (1994 Code, § 17-101)

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. (1994 Code, § 17-102)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this city where refuse accumulates or is likely to accumulate shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this

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

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 fifty (50) 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 feet (4') and shall be securely tied in individual bundles weighing not more than fifty (50) pounds each and being not more than two feet (2') 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 must be no less than ten (10) gallons. (1994 Code, § 17-103, as amended by Ord. #7-15, July 2015, and Ord. #7-15, Sept. 2020)

17-104. Location of containers. Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the 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. (1994 Code, § 17-104)

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. (1994 Code, § 17-105)

17-106. Collection. All residential 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. (1994 Code, § 17-106, as amended by Ord. #7-15, July 2015)

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. (1994 Code, § 17-107)

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. (1994 Code, § 17-108)

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 set by the current budget.

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.

Nothing in excess of one (1) large piece of trash such as side table, chair, couch, etc., in addition to normal household trash will be picked up once per month. No hazardous materials will be picked up by our employees or our equipment. (1994 Code, § 17-109, as amended by Ord. #7-15, July 2015 and Ord. #3-172, April 2017, modified)

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. (1994 Code, § 17-110)

17-111. Violations and penalty. Any person violating any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined fifty dollars ($50.00) per occurrence, per day. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (1994 Code, § 7-111, as amended by Ord. #3-172, April 2017)

TITLE 18

WATER AND SEWERS[1]

CHAPTER

CHAPTER 1

WATER AND SEWER SYSTEM ADMINISTRATION

SECTION

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[1]Municipal 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. (1994 Code, § 18-101)

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) "Discount date" means 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.

(3) "Dwelling" means any single structure, with auxiliary buildings, occupied by one (1) or more persons or households for residential purposes.

(4) "Household" means any one (1) or more persons living as a family group.

(5) "Premises" means any structure or group of structures operated as a single business or enterprise; provided, however, the term "premises" shall not include more than one (1) dwelling.

(6) "Service line" means 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. (1994 Code, § 18-102, modified)

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. (1994 Code, § 18-103)

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 re-connection, 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. (1994 Code, § 18-104, modified)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection in addition to the regular charge for water and/or sewer service. (1994 Code, § 18-105, modified)

18-106. Connection charges. (1) Service lines will be laid by the city and owned by the city from its mains to the meter. 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.

(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 subsections (2) and (3) above. (1994 Code, § 18-106, modified)

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; provided, 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 subsection (2) below. 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 fifty-fifty (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 fifty-fifty (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:

(a) All materials and appurtenances shall be specified in the design, and shall be suitable to accomplish the objective of the water

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[1]Municipal code reference

Construction of building sewers: title 18, chapter 2.

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 (3") through forty-eight inches (48") 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 ANSI/AWWA Standarad C111/A21.10-90. Joints for ductile iron pipe 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 (4") through twelve inches (12") shall conform to ANSI/AWWA Standard C900-89. PVC pipe sizes fourteen inches (14") through thirty-six inches (36") 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 (1/2") through three inches (3") shall comply with AWWA Standard C901-88 and conform to ASTM specification D-1248-89. Polybutylene one-half inch (1/2") through three inches (3") 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 (2") through twenty-four inches (24") 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 one thousand feet (1,000') apart; no lot should be further than approximately five hundred feet (500') 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.

(iii) "ASTM." American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103; (215) 299-5400.

(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 six hundred feet (600')) 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 ten feet (10'). 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 (1) of the following:

(A) Providing a ten-foot (10') horizontal separation between water pipes and the sewer;

(B) Placing water pipes eighteen inches (18") 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 one-foot (1') below the natural bottom of the stream bed when the sewer is located in rock, three feet (3') 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 ninety-five percent (95%) 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 twenty percent (20%) 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 subsection (3)(a)(i) above. 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 two feet (2') 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 (1) 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 four-inch (4") and smaller lines not more than seventy-five feet (75') apart. For lateral lines greater than four inches (4"), 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 eight hundred feet (800') measured along the pipe.

(ii) Manholes shall be constructed of the materials and to the specifications outlined in subsection (3)(f)(ii) below. Manholes shall be watertight to prevent infiltration of groundwater. Manholes located within flood zones, detention facilities, or areas of stormwater 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 ninety degrees (90°) and the drop between inverts shall be not less than one-tenth foot (1/10'). 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 three feet (3') in the manhole. In addition, sewer laterals shall not connect directly to a manhole more than three feet (3') above the lowest invert.

(vi) Manhole castings located in travelways shall be capable of withstanding traffic loads and shall meet the standards outlined in subsection (f) below. 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 ninety-five percent (95%) of the inside diameter of the pipe. No pipe shall exceed a deflection of five percent (5%).

(ii) A leakage test, either infiltration or exfiltration, shall be performed on all pipe runs. The leakage, outward or inward, shall not exceed two hundred (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 two feet (2'). 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 subsection (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.

(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. (1994 Code, § 18-107)

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. (1994 Code, § 18-108)

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. (1994 Code, § 18-109)

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:

Meter Size	Percentage
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

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. (1994 Code, § 18-110)

18-111. Multiple services through a single meter. No customer shall supply water or sewer service to more than one (1) dwelling or premises from a single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one (1) dwelling or premises 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 premises served. The water and/or sewer charges for each such dwelling or premises thus served shall be computed just as if each such dwelling or premises 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 premises 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. (1994 Code, § 18-111)

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. (1994 Code, § 18-112)

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 (1) 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. (1994 Code, § 18-113)

18-114. Re-connection charge. The fee for reconnection 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.

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. (1994 Code, § 18-115)

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. (1994 Code, § 18-116)

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. (1994 Code, § 18-117)

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. (1994 Code, § 18-118)

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. (1994 Code, § 18-119)

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. (1994 Code, § 18-120)

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. (1994 Code, § 18-121)

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. (1994 Code, § 18-122)

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. (1994 Code, § 18-123)

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. (1994 Code, § 18-124)

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. (1994 Code, § 18-125)

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. (1994 Code, § 18-126)

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] (1994 Code, § 18-127)

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 twenty-four (24) hours of distribution storage based on the average daily demand for the past twelve (12) 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 inches (6") or larger and able to provide five hundred (500) gallons per minute with twenty (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, the water commissioner or his designee will submit to the division of water supply a Consumer Confidence Report (CCR), as per State Regulation § 0400-45-01-.35. This information can be obtained through Athens Utilities Board, and/or Hiwassee Utility District. (1994 Code, § 18-128, modified)

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, 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, (State Water Regulations § 0400-45-01-.17. (1994 Code, § 18-129, modified)

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[1]Administrative ordinances and resolutions are of record in the office of the city recorder.

18-130. Customer complaints. The water clerk will maintain a file of customer complaints containing the following: The nature of the complaint, the 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 § 0400-45.01-.19, the supervisor shall ensure that public notices as required in said section are made (note: sample notice is in customer complaint file). (1994 Code, § 18-130, modified)

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 therefor shall be fined not less than ten dollars ($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. (1994 Code, § 18-131)

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 be pending appeal.

Nothing in this section shall be construed to create a cause of action against the water department, the City of Niota, or any of its agents or employees. (1994 Code, § 18-132)

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. (1994 Code, § 18-133)

18-134. Wanton waste of water. It shall be unlawful for any person to wantonly waste water supplied by the city, either to residential or commercial connections. Wanton waste of water shall include, but not be limited to, water escaping through broken pipes. (1994 Code, § 18-134)

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. (1994 Code, § 18-135)

CHAPTER 2

GENERAL WASTEWATER REGULATIONS

SECTION

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, being 33 U.S.C. §§ 1251, *et. seq.,* and the State Water Quality Control Act, being *Tennessee Code Annotated*, §§ 69-3-101, et. seq., 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. (1994 Code, § 18-201, modified)

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. (1994 Code, § 18-202)

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) "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*.

(2) "Administrator." The Administrator of the United States Environmental Protection Agency.

(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 ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been

assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental 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 (4)(a) through (4)(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." 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." 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 refers 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 (1) 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 twenty-four (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 composited 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. § 1317) which applies to a specific category of industrial users.

(36) "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, being 33 U.S.C. § 1342, as amended.

(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, being 33 U.S.C. § 1317, 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;

(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 subsections (37)(a)(ii) or (37)(a)(iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

(i) Begun, or caused to begin, as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including 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.

(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) "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.

(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 § 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 Words (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 subsection (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 § 403.3(f) 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 chapter 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 (6) 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 (6) 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, ninety (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), being 33 U.S.C. § 1317(a), or other Acts.

(61) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (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, being U.S.C. § 1362, 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. (1994 Code, § 18-203, modified)

18-204. <u>Proper waste disposal required</u>. (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. (1994 Code, § 18-204)

18-205. <u>Private domestic wastewater disposal</u>. (1) <u>Availability</u>.

(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) <u>Requirements</u>. (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. (1994 Code, § 18-205)

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 non-residential 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 of 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 groundwater 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–one-eighth inch (1/8") 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°). 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 polices 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.tn.gov and search for the phrase "design criteria."

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 liens. 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. (1994 Code, § 18-206, modified)

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 watertight 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. (1994 Code, § 18-207)

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. (1994 Code, § 18-208)

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, being 33 U.S.C. 1317(a).

(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 noncompliance with sludge use or disposal criteria, 40 CFR part 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, being 42 U.S.C. §§ 6901, *et. seq.,* the Clean Air Act, being 42 U.S.C. §§ 7401, et. seq., the Toxic Substances Control Act, being U.S.C. §§ 2601, *et. seq.,* 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 Tables A -- Plant Protection Criteria and A-1 -- Pass-through Limitations, 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 A -- Plant Protection Criteria

Parameter	Maximum Concentration (mg/l)
Benzene	0.01304
Cadmium	0.01187
Carbon Tetrachloride	1.500
Chloroform	0.35417
Chromium III	0.250
Chromium VI	0.05892
Copper	0.2128
Cyanide	0.01961
Ethylbenzene	0.040
Lead	0.100
Mercury	0.00038
Methylene chloride	0.09615
Naphthalene	0.0125
Nickel	0.250
Phenol	0.3125
Silver	0.02941
Tetrachloroethylene	0.13889
Toluene	0.21429
Total Phthalate	0.16974

Parameter	Maximum Concentration (mg/l)
Trichlorethlene	0.100
1,1,1-Trichloroethane	0.250
1,2 Transdichloroethylene	0.0075
Zinc	0.290

Table A-1 -- Pass-Through Limitations

Niota STP 01/31/22 McMinn County
Design Flow: 0.4 MGD TN0025470 7Q10: 0.34 MGD

Parameter	Concentration (µg/l)
Copper	51.06
Chromium, III	Report only
Chromium, IV	14.14
Nickel	180.00
Cadmium	5.00
Lead	30.40
Mercury	0.07
Silver	5.00
Zinc	200.00
Cyanide	6.68
Toluene	15.00
Benzene	3.00
1,1,1 Trichloroethane	30.00
Ethyl benzene	4.00
Carbon Tetrachloride	15.00
Chloroform	85.00
Tetrachloroethylene	25.00
Trichloroethylene	10.00

1,2 trans Dichloroethylene	1.50
Methylene Chloride	50.00
Phenols, Total	50.00
Naphthalene	1.00
Phthalates, Total[1]	64.50

[1]Total Phthalates is the sum of Bis (2-ethylhexyl) phthalate, Butyl benzylphthalate, Di-n-butylphthalate and Diethyl phthalate.

Note: These limits are monthly averages. All sampling and analysis must be in accordance with 40 CFR 1 36 unless explicitly allowed by the NPDES permit. See Part 3.2. of the NPDES permit for sample type requirements. References include T.C.A. 0400-40-1 4-.12(7)(c), 40 CFR 1 36, and EPA Form 3510-2C (8/90 version).

(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; and

(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. (1994 Code, § 18-209, as amended by Ord. #20-1, March 2020, modified)

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 the 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. (1994 Code, § 18-210)

CHAPTER 3

INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

SECTION

18-301. Industrial pretreatment. In order to comply with Federal Industrial Pretreatment Rules 40 CFR part 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.

Table B -- Local Limits

NOTE: As of January 2014 the Niota Sewer Plant has allocated industrial pollutants based on industrial need.

Pollutant	Monthly Average* Maximum Concentration (mg/l)	Daily Maximum Concentration (mg/l)
Benzene	0.04968	0.07452
Cadmium	0.035415	0.053123
Carbon Tetrachloride	6.747	10.11
Chloroform	1.5847	2.37714
Chromium III	1.107	1.6605
Chromium VI	0.24714	0.3707
Copper	0.8586	1.2879
Cyanide	0.052245	0.07836
Ethylbenzene	0.162	0.243
Lead	0.432	0.648
Mercury	0.00135	0.002025
Methylene chloride	0.41467	0.6220
Napthalene	0.0526	0.0789
Nickel	1.107	1.6605
Phenol	1.3882	2.0823
Silver	0.11434	0.1715
Tetrachloroethylene	0.6160	0.9240
Toluene	0.9553	1.4329
Total Phthalate	0.6558	0.9837
Trichlorethlene	0.441	0.6615
1,1,1-Trichloroethane	1.116	1.674
1,2 Transdichloroethylene	0.02475	0.037125
Zinc	0.756	1.134

*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.

Surcharge and Maximum Limits mg/l

Parameter	Surcharge Limit	Maximum Concentration
Total Kjeldahl Nitrogen (TKN)	85	120
Oil and Grease	50	100
BOD	300	600
Total Suspended Solids	350	700

(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 prohibit 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. (1994 Code, § 18-301, as amended by Ord. #20-1, March 2020, modified)

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; and

(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; and/or

(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; and/or

(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 as 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. (1994 Code, § 18-302)

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 part 136 and appropriate EPA guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: For cyanide, total 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 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. (1994 Code, § 18-303)

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 (1)(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 (1)(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's 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 part 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 part 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) below. All sampling will be done in conformance with subsection (11) below.

(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) below, 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 (6)(a) above. Employers 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 the user's 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) above.

(b) Dischargers are exempt from the requirements of subsection (9)(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 (1) 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, being the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et. seq.*, 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 (11)(b) and (11)(c) below, the user must collect wastewater samples using twenty-four (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 twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile 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 ninety (90) day compliance reports required in subsections (1) and (3) above, 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) above, 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 litigator 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. (1994 Code, § 18-304, modified)

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) below, 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 (1)(a)(i) through (1)(a)(iii) above, 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 (1) 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) above. 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 potion, 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 (2)(a)(vi) below. 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 (2)(b) below; and

(viii) Any person to whom an emergency order is directed under subsection (1)(b)(i)(D) above 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 (2)(a) or (2)(b) above, 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 noncompliance. (a) Insignificant noncompliance. For the purpose of this guide, insignificant noncompliance 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 noncompliance. Per chapter 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 (6) 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 (6) 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, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report noncompliance.

(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 noncompliance 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 noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall be applicable to all significant industrial users (or any other industrial user that violates subsections (9)(c), (9)(d) or (9)(h) below) 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;

(f) Failure to accurately report noncompliance;

(g) 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; or

(h) 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. (1994 Code, § 18-305)

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 A[1] to impose sanctions or penalties for the violation of this chapter. (1994 Code, § 18-306)

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.[2] 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

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[1]Appendix A is available for review in the office of the city recorder.

[2]Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

officer may access a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 1	No penalty
Category 2	$50.00-$500.00
Category 3	$500.00-$1,000.00
Category 4	$1,000.00-$5,000.00
Category 5	$5,000.00-$10,000.00

(1994 Code, § 18-307)

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. (1994 Code, § 18-308)

CHAPTER 4

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.[1]

SECTION

18-401. Background and purpose. In order for the Niota Waterworks to serve the public and to comply with the regulations of the Environmental Protection Agency and the Tennessee Department of Environment and Conservation and other state and federal regulations, the Niota Waterworks must establish a cross-connection chapter and program to protect the public's water supply.

The Niota Waterworks is ran for the benefit of all present and future customers, and while no customer shall intentionally be treated unfairly, no customer shall be treated in a way that compromises the interests of other current and future customers. (Ord. #6-182, May 2018)

18-402. Limitations. The Niota Waterworks is subject to various city, county, state, federal or other governmental agency requirements and has no discretion to provide service in a manner which would violate such regulations or requirements. (Ord. #6-182, May 2018)

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[1]Municipal code references
Water and sewer system administration: title 18.
Wastewater treatment: title 18.

18-403. Record keeping duration. All records regarding cross-connections shall be kept indefinitely. (Ord. #6-182, May 2018)

18-404. Omissions. In the absence of specific rules or policies, the governing board, in accordance with its usual and customary practices, shall make the disposition of situations involving service.

This chapter sets forth uniform requirements for the protection of the public water system for the Niota Waterworks from possible contamination, and enable Niota Waterworks to comply with all applicable local, state and federal laws, regulations, standards or requirements, including the Safe Drinking Water Act of 1996, *Tennessee Code Annotated*, §§ 68-221-701 through 68-221-720, and the Rules and Regulations for Public Water Systems and Drinking Water Quality issued by the Tennessee Department of Environment and Conservation, Division of Water Supply. (Ord. #6-182, May 2018)

18-405. Objectives. The objectives of this chapter is to:

(1) To protect the public potable water system of Niota Waterworks from the possibility of contamination or pollution by isolating within the customer's internal distribution system such contaminants or pollutants that could backflow or back siphon into the public water system;

(2) To promote the elimination or control of existing cross-connections, actual or potential, between the customer's in-house potable water system and non-potable water systems, plumbing fixtures, and industrial piping systems; and

(3) To provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems. (Ord. #6-182, May 2018)

18-406. Definitions. The following words, terms and phrases shall have the meanings ascribed to them in this section when used in the interpretation and enforcement of this chapter:

(1) "Air-gap" means a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved air-gap separation shall be at least twice the inside diameter of the water supply line, but in no case less than two inches (2"). Where a discharge line serves as receiver, the air-gap shall be at least twice the diameter of the discharge line, but not less than two inches (2").

(2) "Atmospheric vacuum breaker" means a device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in the water system.

(3) "Auxiliary intake" means any water supply, on or available to a premises, other than that directly supplied by the public water system. These auxiliary waters may include water from another purveyor's public water

system; any natural source, such as a well, spring, river, stream, and so forth; used, reclaimed or recycled waters; or industrial fluids.

(4) "Backflow" means the undesirable reversal of the intended direction of flow in a potable water distribution system as a result of a cross-connection.

(5) "Backpressure" means any elevation of pressure in the downstream piping system (caused by pump, elevated tank or piping, steam and/or air pressure) above the water supply pressure at the point which would cause, or tend to cause, a reversal of the normal direction of flow.

(6) "Backsiphonage" means the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Bypass" means any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(8) "Cross-connection" means any physical connection or potential connection whereby the public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other waste or liquid of unknown or unsafe quality, which may be capable of imparting contamination to the public water system as a result of backflow or backsiphonage. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, through which or because of which backflow could occur, are considered to be cross-connections.

(9) "Double check detector assembly" means an assembly of two (2) independently operating, approved check valves with an approved water meter (protected by another double check valve assembly) connected across the check valves, with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each part of the assembly.

(10) "Double check valve assembly" means an assembly of two (2) independently operating, approved check valves with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each check valve.

(11) "Fire protection systems" shall be classified in six (6) different classes in accordance with *AWWA Manual M14*, second edition 1990. The six (6) classes are as follows:

(a) Class 1 shall be those with direct connections from public water mains only; no pumps, tanks or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

(b) Class 2 shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

(c) Class 3 shall be those with direct connection from public water supply mains, plus one (1) or more of the following: elevated storage tanks, fire pumps taking suction from above ground covered reservoirs or tanks, and/or pressure tanks (all storage facilities are filled from or connected to public water only, and the water in the tanks is to be maintained in a potable condition).

(d) Class 4 shall be those with direct connection from the public water supply mains, similar to Class 1 and Class 2, with an auxiliary water supply dedicated to fire department use and available to the premises, such as an auxiliary supply located within one thousand seven hundred feet (1,700') of the pumper connection.

(e) Class 5 shall be those directly supplied from public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells; mills or other industrial water systems; or where antifreeze or other additives are used.

(f) Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(12) "Interconnection" means any system of piping or other arrangements 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 system.

(13) "Manager/superintendent" means the manager/superintendent of the Niota Waterworks, or his/her duly authorized deputy, agent or representative.

(14) "Person" means 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.

(15) "Potable water" means water which meets the criteria of the Tennessee Department of Environment and Conservation and the United States Environmental Protection Agency for human consumption.

(16) "Pressure vacuum breaker" means an assembly consisting of a device containing one (1) or two (2) independently operating spring-loaded check valves and an independently operating spring-loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief valve.

(17) "Public water supply" means the Niota Waterworks, which furnishes potable water to the public for general use and which is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(18) "Reduced pressure principle backflow prevention device" means an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing resilient seated shut-off valves, plus properly located resilient seated test cocks for the testing of the check valves and the relief valve.

(19) "Water system" means and shall be considered as made up of two (2) parts, the "utility system" and the "customer system."

(a) The "utility system" shall consist of the facilities for the storage and distribution of water and shall include all those facilities of the water system under the complete control of the utility system, up to the point where the customer's system begins (i.e., the water meter).

(b) The "customer system" shall include those parts of the facilities beyond the termination of the utility system distribution system that are utilized in conveying domestic water to points of use. (Ord. #6-182, May 2018)

18-407. Compliance with Tennessee Code Annotated. The Niota Waterworks shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of contaminants through the water service connection. Niota Waterworks shall comply with *Tennessee Code Annotated*, § 68-221-711, as well as the Rules and Regulations for Public Water Systems and Drinking Water Quality, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses and interconnections; and shall establish an effective, on-going program to control these undesirable water uses. (Ord. #6-182, May 2018)

18-408. Regulated. (1) No water service connection to any premises shall be installed or maintained by Niota Waterworks unless the water supply system is protected as required by state laws and this chapter. Service of water to any premises shall be discontinued by the Niota Waterworks if a backflow prevention device required by this chapter is not installed, tested, and/or maintained; or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross-connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

(2) It shall be unlawful for any person to cause a cross-connection to be made or allow one (1) to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross-connection is at all times under the direction of the Manager/Superintendent of Niota Waterworks.

(3) If, in the judgment of the manager/superintendent or his designated agent, an approved backflow prevention device is required at the water service connection to a customer's premises, or at any point(s) within the

premises, to protect the potable water supply, the manager/superintendent shall compel the installation, testing and maintenance of the required backflow prevention device(s) at the customer's expense.

(4) An approved backflow prevention device shall be installed on each water service line to a customer's premises at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line.

(5) For new installations, the manager/superintendent or his designated agent shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention device, if any, that will be required, and to notify the owners in writing of the required device and installation criteria. All required devices shall be installed and operational prior to the initiation of water service.

(6) For existing premises, personnel from the Niota Waterworks shall conduct inspections and evaluations and shall require correction of violations in accordance with the provisions of this chapter. (Ord. #6-182, May 2018)

18-409. Permit required. (1) New installations. No installation, alteration, or change shall be made to any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first contacting Niota Waterworks for application and manager/superintendent approval.

(2) Existing installations. No alteration, repair, testing or change shall be made of any existing backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing the appropriate approval from Niota Waterworks. (Ord. #6-182, May 2018)

18-410. Inspections. The manager/superintendent, or his designated agent, shall inspect all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspection shall be based on potential health hazards involved and shall be established by Niota Waterworks in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation. (Ord. #6-182, May 2018)

18-411. Right of entry for inspections. The manager/superintendent, or his authorized representative, shall have the right to enter, at any reasonable time, any property served by a connection to Niota Waterworks public water system for the purpose of inspecting the piping system therein for cross-connection, auxiliary intakes, bypasses or interconnections, or for the testing of backflow prevention devices. Upon request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system(s) on such property. The refusal of such information

or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections, and shall be grounds for disconnection of water service. (Ord. #6-182, May 2018)

18-412. Correction of violations. (1) Any person found to have cross-connections, auxiliary intakes, bypasses or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of the existing conditions and an appraisal of the time required to complete the work, the manager/superintendent, or his representative, shall assign an appropriate amount of time, but in no case shall the time for corrective measures exceed ninety (90) days.

(2) Where cross-connections, auxiliary intakes, bypasses or interconnections are found that constitute an extreme hazard, with the immediate possibility of contaminating the public water system, Niota Waterworks shall require that immediate corrective action be taken to eliminate the threat to the public water system. Expeditious steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard is immediately corrected, subject to the right to a due process hearing upon timely request. The time allowed for preparation for a due process hearing shall be relative to the risk of hazard to the public health and may follow disconnection when the risk to the public health and safety, in the opinion of the manager/superintendent, warrants disconnection prior to a due process hearing.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and *Tennessee Code Annotated*, § 68-221-711, within the time limits established by the manager/superintendent, or his representative, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the manager/superintendent shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water system from the customer's on-site piping in such a manner that the two (2) systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk to the public health and safety, in the opinion of the manager/superintendent, warrants disconnection prior to a due process hearing. (Ord. #6-182, May 2018)

18-413. Required devices. (1) An approved backflow prevention assembly shall be installed downstream of the meter on each service line to a customer's premises at or near the property line or immediately inside the building being served, but in all cases, before the first branch line leading off the service line, when any of the following conditions exist:

(a) Impractical to provide an effective air-gap separation;

(b) The owner/occupant of the premises cannot or is not willing to demonstrate to Niota Waterworks that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water;

(c) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;

(d) There is likelihood that protective measures may be subverted, altered or disconnected;

(e) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required; and/or

(f) The plumbing from a private well or other water source enters the premises served by the public water system.

(2) The protective devices shall be of the reduced pressure zone type (except in the case of certain fire protection systems and swimming pools with no permanent plumbing installed) approved by the Tennessee Department of Environment and Conservation and Niota Waterworks, as to manufacture, model, size and application. The method of installation of backflow prevention devices shall be approved by Niota Waterworks prior to installation and shall comply with the criteria set forth in this chapter. The installation and maintenance of backflow prevention devices shall be at the expense of the owner or occupant of the premises.

(3) Premises requiring reduced pressure principle assemblies or air gap separation. (a) High risk high hazards. Establishments which pose significant risk of contamination or may create conditions which pose an extreme hazard of immediate concern (high risk high hazards), the cross-connection control inspector shall require immediate or a short amount of time (fourteen (14) days maximum), depending on conditions, for corrective action to be taken. In such cases, if corrections have not been made within the time limits set forth, water service will be discontinued.

(b) High risk high hazards require a reduced pressure principle (or detector) assembly. The following list is establishments deemed high risk high hazard and require a reduced pressure principle assembly:

(i) High risk high hazards:

(A) Mortuaries, morgues, autopsy facilities;

(B) Hospitals, medical buildings, animal hospitals and control centers, doctor and dental offices;

(C) Sewage treatment facilities, water treatment, sewage and water treatment pump stations;

(D) Premises with auxiliary water supplies or industrial piping systems;

(E) Chemical plants (manufacturing, processing, compounding, or treatment);

(F) Laboratories (industrial, commercial, medical research, school);

(G) Packing and rendering houses;

(H) Manufacturing plants;

(I) Food and beverage processing plants;

(J) Automated car wash facilities;

(K) Extermination companies;

(L) Airports, railroads, bus terminals, piers, boat docks;

(M) Bulk distributors and users of pesticides, herbicides, liquid fertilizer, etc.;

(N) Metal plating, pickling, and anodizing operations;

(O) Greenhouses and nurseries;

(P) Commercial laundries and dry cleaners;

(Q) Film laboratories;

(R) Petroleum processes and storage plants;

(S) Restricted establishments;

(T) Schools and educational facilities;

(U) Animal feedlots, chicken houses, and CAFOs;

(V) Taxidermy facilities; and

(W) Establishments which handle, process, or have extremely toxic or large amounts of toxic chemicals or use water of unknown or unsafe quality extensively.

(ii) High hazard. In cases where there is less risk of contamination, or less likelihood of cross-connections contaminating the system, a time period of ninety (90) days maximum will be allowed for corrections. High hazard is a cross-connection or potential cross-connection involving any substance that could, if introduced in the public water supply, cause death, illness and spread disease. (See Appendix A of manual.)

(4) Applications requiring backflow prevention devices shall include, but shall not be limited to, domestic water service and/or fire flow connections for all medical facilities, all fountains, lawn irrigation systems, wells, water softeners and other treatment systems, swimming pools and on all fire hydrant connections other than those by the fire department in combating fires. Those facilities deemed by Niota Waterworks as needing protection.

(a) Class 1, Class 2 and Class 3 fire protection systems shall generally require a double check valve assembly; except:

(i) A double check detector assembly shall be required where a hydrant or other point of use exists on the system; or

(ii) A reduced pressure backflow prevention device shall be required where:

(A) Underground fire sprinkler lines are parallel to and within ten feet (10') horizontally of pipes carrying sewage or significantly toxic materials;

(B) Premises have unusually complex piping systems; and/or

(C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(b) Class 4, Class 5 and Class 6 fire protection systems shall require to reduced pressure backflow prevention devices.

(c) Wherever the fire protection system piping is not an acceptable potable water system material, or chemicals such as foam concentrates or antifreeze additives are used, a reduced pressure backflow prevention device shall be required.

(d) Swimming pools with no permanent plumbing and only filled with hoses will require a hose bibb vacuum breaker be installed on the faucet used for filling.

(5) The manager/superintendent, or his representative, may require additional and/or internal backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

(6) Installation criteria. The minimum acceptable criteria for the installation of reduced pressure backflow prevention devices, double check valve assemblies or other backflow prevention devices requiring regular inspection or testing shall include the following:

(a) All required devices shall be installed in accordance with the provisions of this chapter, by a person approved by Niota Waterworks, who is knowledgeable in the proper installation. Only licensed sprinkler contractors may install, repair or test backflow prevention devices on fire protection systems.

(b) All devices shall be installed in accordance with the manufacturer's instructions and shall possess appropriate test cocks, fittings and caps required for the testing of the device (except hose bibb vacuum breakers). All fittings shall be of brass construction, unless otherwise approved by Niota Waterworks, and shall permit direct connection to department test equipment.

(c) The entire device, including valves and test cocks, shall be easily accessible for testing and repair.

(d) All devices shall be placed in the upright position in a horizontal run of pipe.

(e) Device shall be protected from freezing, vandalism, mechanical abuse and from any corrosive, sticky, greasy, abrasive or other damaging environment.

(f) Reduced pressure backflow prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above either:

(i) The floor;

(ii) The top of opening(s) in the enclosure; or

(iii) Maximum flood level, whichever is higher. Maximum height above the floor surface shall not exceed sixty inches (60").

(g) Clearance from wall surfaces or other obstructions shall be at least six inches (6"). Devices located in non-removable enclosures shall have at least twenty-four inches (24") of clearance on each side of the device for testing and repairs.

(h) Devices shall be positioned where a discharge from the relief port will not create undesirable conditions. The relief port must never be plugged, restricted or solidly piped to a drain.

(i) An approved air-gap shall separate the relief port from any drainage system. An approved air-gap shall be at least twice the inside diameter of the supply line, but never less than one inch (1").

(j) An approved strainer shall be installed immediately upstream of the backflow prevention device, except in the case of a fire protection system.

(k) Devices shall be located in an area free from submergence, or flood potential therefor, never in a below grade pit or vault. All devices shall be adequately supported to prevent sagging.

(l) Adequate drainage shall be provided for all devices. Reduced pressure backflow prevention devices shall be drained to the outside whenever possible.

(m) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed such that backflow/backsiphonage through the drain may occur.

(n) Enclosures for outside installations shall meet the following criteria:

(i) All enclosures for backflow prevention devices shall be as manufactured by a reputable company or an approved equal.

(ii) For backflow prevention devices up to and including two inches (2"), the enclosure shall be constructed of adequate material to protect the device from vandalism and freezing and shall be approved by Niota Waterworks. The complete assembly, including valve stems and hand wheels, shall be protected by being inside the enclosure.

(iii) To provide access for backflow prevention devices up to and including two (2") inches, the enclosure shall be completely removable. Access for backflow prevention devices two and a half inches (2-1/2") and larger shall be provided through a minimum of two (2) access panels. The access panels shall be of the same height

as the enclosure and shall be completely removable. All access panels shall be provided with built-in locks.

(iv) The enclosure shall be mounted to a concrete pad in no case less than four inches (4") thick. The enclosure shall be constructed, assembled and/or mounted in such a manner that it will remain locked and secured to the pad even if any outside fasteners are removed. All hardware and fasteners shall be constructed of 300 series stainless steel.

(v) Heating equipment, if required, shall be designed and furnished by the manufacturer of the enclosure to maintain an interior temperature of forty degrees Fahrenheit (40°F) with an outside temperature of negative thirty degrees Fahrenheit (-30°F) and a wind velocity of fifteen (15) miles per hour.

(o) Where the use of water is critical to the continuance of normal operations or the protection of life, property or equipment, duplicate backflow prevention devices shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one (1) device has been installed and the continuance of service is critical, Niota Waterworks shall notify, in writing, the occupant of the premises of plans to interrupt water services and arrange for a mutually acceptable time to test the device. In such cases, Niota Waterworks may require the installation of a duplicate device.

(p) Niota Waterworks shall require the occupant of the premises to keep any backflow prevention devices working properly, and to make all indicated repairs promptly. Repairs shall be made by qualified personnel acceptable to Niota Waterworks. Expense of such repairs shall be borne by the owner for occupant of the premises. The failure to maintain a backflow prevention device in proper working condition shall be grounds for discontinuance of water service to the premises. Likewise, the removal, bypassing or alteration of a backflow prevention device or the installation thereof, so as to render a device ineffective, shall constitute a violation of this chapter and shall be 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 Niota Waterworks.

(7) Testing of devices. Devices shall be tested at least annually by a qualified person possessing a valid certification from the Tennessee Department of Environment and Conservation, Division of Water Supply for the testing of such devices. A record of this test needs to be submitted and put on file with Niota Waterworks and a copy of this report will be supplied to the customer. Water service shall not be disrupted to test a device without the knowledge of the occupant of the premises. (Ord. #6-182, May 2018)

18-414. Non-potable supplies. The potable water supply made available to a premises served by the public water system shall be protected from contamination as specified in the provisions of this chapter. Any water pipe or outlet which could be used for potable or domestic purposes and which is not supplied by the potable water system must be labeled in a conspicuous manner such as:

WATER UNSAFE FOR DRINKING

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. Color-coding of pipelines, in accordance with (OSHA) Occupational Safety and Health Act guidelines, being 29 U.S.C. §§ 651, *et. seq*., shall be required in locations where, in the judgment of Niota Waterworks, such coding is necessary to identify and protect the potable water supply. (Ord. #6-182, May 2018, modified)

18-415. Statement required. Any person whose premises is supplied with water from the public water system, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water is circulated through a piping system, shall file with Niota Waterworks a statement of the nonexistence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses or interconnections. Such statement shall contain an agreement that no cross-connections, auxiliary intakes, bypasses or interconnections will be permitted upon the premises. Such statement shall also include the location of all additional water sources utilized on the premises and how they are used. Maximum backflow protection shall be required on all public water sources supplied to the premises. (Ord. #6-182, May 2018)

18-416. Provision applicable. The requirements contained in this chapter shall apply to all premises served by Niota Waterworks and are hereby made part of the conditions required to be met for Niota Waterworks to provide water services to any premises. The provisions of this chapter shall be rigidly enforced since it is essential for the protection of the public water distribution system against the entrance of contamination. Any person aggrieved by the action of the chapter is entitled to a due process hearing upon timely request. (Ord. #6-182, May 2018)

18-417. Violations and penalty. (1) Any person who neglects or refuses to comply with any of the provisions of this chapter may be deemed guilty of a misdemeanor and subject to a fine.

(2) Independent of and in addition to any fines or penalties imposed, the manager/superintendent may discontinue the public water supply service to any premises upon which there is found to be a cross-connection, auxiliary intake, bypass or interconnection; and service shall not be restored until such

cross-connection, auxiliary intake, bypass or interconnection has been eliminated. (Ord. #6-182, May 2018)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

CHAPTER 1

ELECTRICITY

SECTION

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.[1] 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. (1994 Code, § 19-101)

[1]The agreements are of record in the office of the city recorder.

CHAPTER 2

GAS

SECTION

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] (1994 Code, § 19-201)

[1]The agreements are of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

[RESERVED FOR FUTURE USE]

ORDINANCE NO. 23-45

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE 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 Mayor and 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 MAYOR AND COMMISSIONERS OF THE CITY OF NIOTA, TENNESSEE,* THAT:

Section 1. Ordinances codified. The ordinances of the City of Niota 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 appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing or authorizing the establishment

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*The charter may provide for a different ordination clause; use whatever the charter prescribes.

of a social security system or providing or changing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars ($50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.[1]

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[1]State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and 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.

Passed 1st reading 1/9, 2023.

Passed 2nd reading 4/10, 2023.

Lyn Preece
Mayor

Recorder

APPROVED AS TO FORM:

City Attorney