THE PURYEAR MUNICIPAL CODE

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

CITY OF PURYEAR, TENNESSEE

MAYOR

Kenny Paschall

VICE MAYOR

Tellus Gallimore

ALDERMEN

Gordon Dunning Kenny Jenkins Brian Sykes

RECORDER

Verla Smith

PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

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

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

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

Steve Lobertini Codification Specialist

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

SECTION 12. Ordinances. Any action of the board having a regulatory or penal effect, awarding franchises or required to be done by ordinance under this charter or the general laws of the state shall be done only by ordinance. Other actions may be accomplished by resolutions or motions. Resolutions shall be in written form before being introduced. The enacting clause of ordinances shall be "Be it ordained by the Board of Mayor and Aldermen of the City of Puryear:". Every ordinance must be approved by a majority vote of the board. Ordinances shall take effect upon final reading and adoption, unless a rdifferent effective date is designated in the ordinance.

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

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

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. General rules of order.
- 1-101. <u>Time and place of regular meetings</u>. The board of mayor and aldermen shall hold regular monthly meetings at 7:00 P.M. on the second Tuesday of each month at the city hall. (1989 Code, § 1-101)
- 1-102. General rules of order. The rules of order and parliamentary procedure contained in <u>Robert's Rules of Order, Newly Revised</u>, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1989 Code, § 1-102, modified)

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.

²Charter references

Compensation: § 7(b).

Meetings: § 7(c).

Oath: § 21.

Vacancy in office: § 10.

¹Charter references

MAYOR¹

SECTION

- 1-201. Generally supervises city's affairs.
- 1-202. Executes city's contracts.
- 1-201. <u>Generally supervises city's affairs</u>. The mayor shall have general supervision of all city affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1989 Code, § 1-201)
- **1-202.** Executes city's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1989 Code, § 1-202)

¹Charter references

Bond required: § 22.

Compensation: § 7(b).

Duties: § 14. Oath: § 21.

Vacancy in office: § 10.

RECORDER¹

SECTION

- 1-301. To be bonded.
- 1-302. To keep minutes, etc.
- 1-303. To perform general administrative duties, etc.
- **1-301.** To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of mayor and aldermen. (1989 Code, § 1-301)
- 1-302. <u>To keep minutes, etc</u>. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1989 Code, § 1-302)
- 1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the city which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers. (1989 Code, § 1-303)

¹Charter references

Bond required: § 22.

Duties: § 15.

Term of office: § 15.

CODE OF ETHICS

SECTION

- 1-401. Applicability.
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in nonvoting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations.
- 1-401. <u>Applicability</u>. This chapter is the code of ethics for personnel of the City of Puryear, Tennessee. 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. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #53-07, Feb. 2007)
- **1-402.** <u>**Definition of "personal interest."**</u> (1) For the purpose of §§ 1-403 and 1-404, "personal interest" means:
 - (a) Any financial interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
 - (b) Any financial ownership, or employment interest in a matter to be regulated or supervised; or
 - (c) Any such financial ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(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 a vote or that is to be regulated or supervised.
- (3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #53-07, Feb. 2007)
- 1-403. <u>Disclosure of personal interest by official with vote</u>. An official with the responsibility to vote on a measure shall disclose during the

meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure. (as added by Ord. #53-07, Feb. 2007)

- 1-404. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the city recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #53-07, Feb. 2007)
- **1-405.** Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:
- (1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or
- (2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #53-07, Feb. 2007)
- **1-406.** <u>Use of information</u>. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.
- (2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #53-07, Feb. 2007)
- 1-407. <u>Use of municipal time, facilities, etc</u>. (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

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

lease that is determined by the board of mayor and aldermen to be in the best interests of the City of Puryear. (as added by Ord. #53-07, Feb. 2007)

- 1-408. <u>Use of position or authority</u>. (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 city charter, general law, or ordinance or policy of the City of Puryear. (as added by Ord. #53-07, Feb. 2007)
- 1-409. <u>Outside employment</u>. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the city charter or any ordinance or policy. (as added by Ord. #53-07, Feb. 2007)
- 1-410. <u>Ethics complaints</u>. (1) The city attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable 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 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 that the city council retain another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.
 - (c) When a complaint of a violation of any provision of this chapter is lodged against a member of the board of mayor and aldermen, the board of mayor and aldermen 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 board of mayor and aldermen determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the board of mayor and aldermen.
- (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 chapter also constitutes a violation of the a personnel policy, rule, or regulation, or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #53-07, Feb. 2007)
- 1-411. <u>Violations</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 city's charter or other applicable law and in addition is subject to censure by the board of mayor and aldermen. An appointed official who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #53-07, Feb. 2007)

TITLE 2 BOARDS AND COMMISSIONS, ETC. [RESERVED FOR FUTURE USE]

TITLE 3

MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge.

- **3-101.** <u>City judge</u>.² (1) <u>Appointment</u>. Subject to confirmation by the board, the mayor shall appoint a qualified person to serve as city judge who shall serve at the pleasure of the board. The city judge shall be vested with the judicial powers and functions granted by the charter.
- (2) <u>Qualifications</u>. The city judge shall be at least twenty-eight (28) years of age.
- (3) <u>Judge pro tem</u>. The mayor may appoint a city judge pro tem to serve during the absence or temporary disability of the city judge. (1989 Code, § 1-501, modified, as amended by Ord. #37-02, July 2002)

¹Charter reference: § 17.

²State law reference

Tennessee Code Annotated, § 16-18-101.

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines, penalties, and costs.
- 3-203. Disposition and report of fines, penalties, and costs.
- 3-204. Disturbance of proceedings.
- **3-201.** Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1989 Code, § 1-502)
- **3-202.** <u>Imposition of fines, penalties, and costs</u>. All fines, penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court.

In all cases heard or determined by him, the city judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases. (1989 Code, § 1-507)

- 3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1989 Code, § 1-510)
- **3-204.** <u>Disturbance of proceedings</u>. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1989 Code, § 1-511)

¹State law reference Tennessee Code Annotated, § 8-21-401.

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

- 3-301. Issuance of arrest warrants.
- 3-302. Issuance of summonses.
- 3-303. Issuance of subpoenas.
- **3-301.** Issuance of arrest warrants.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1989 Code, § 1-503)
- 3-302. <u>Issuance of summonses</u>. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1989 Code, § 1-504)
- **3-303.** <u>Issuance of subpoenas</u>. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1989 Code, § 1-505)

¹State law reference

For authority to issue warrants, see <u>Tennessee Code Annotated</u>, title 40, chapter 6.

BONDS AND APPEALS

SECTION

- 3-401. Appearance bonds authorized.
- 3-402. Appeals.
- 3-403. Bond amounts, conditions, and forms.
- **3-401.** Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the city court clerk, or in absence of the city court clerk, with the ranking police officer on duty at the time, provided such alleged offender is not under the influence of alcohol or drugs. (1989 Code, § 1-506)
- **3-402.** Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1989 Code, § 1-508)
- 3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum as the city judge shall prescribe, not to exceed the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1989 Code, § 1-509)

¹State law reference <u>Tennessee Code Annotated</u>, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

- 1. WORK, VACATION AND SICK LEAVE, AND HOLIDAY REGULATIONS.
- 2. PERSONNEL REGULATIONS.
- 3. TRAVEL REIMBURSEMENT REGULATIONS.
- 4. SOCIAL SECURITY.
- 5. SEXUAL HARASSMENT POLICY.
- 6. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1

WORK, VACATION AND SICK LEAVE, AND HOLIDAY REGULATIONS

SECTION

- 4-101. Applicability of chapter.
- 4-102. Work attendance.
- 4-103. Holidays.
- 4-104. Vacation leave.
- 4-105. Sick leave.
- 4-106. Absence without leave.
- 4-107. Absence without pay.
- 4-108. Leave without pay.
- **4-101.** Applicability of chapter. This chapter shall apply to all full-time municipal officers and employees. (1989 Code, § 1-601)
- **4-102.** Work attendance. All full-time employees of the city shall be in attendance at their regular work and at their regular place of work as may be designated by the department head under whose supervision such employees shall work. (1989 Code, § 1-602)
- **4-103.** <u>Holidays</u>. (1) Except and in addition to such other holidays as may be from time-to-time declared by the board of mayor and aldermen, the following days shall be official holidays for employees:

Holiday Name

Holiday Date

New Year's Day

January 1st of each year

Good Friday Friday before Easter of each year

Memorial Day Last Monday in May of each year

Independence Day July 4th of each year

Labor Day First Monday in September of each year

Thanksgiving Day Fourth Thursday in November of each year

Christmas Day December 25th of each year

- (2) When a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday, and when a holiday falls on a Sunday, the following Monday shall be observed as the holiday.
- (3) All full-time employees of the city shall be compensated for any holiday granted in this chapter or otherwise designated by the board of mayor and aldermen by receiving eight (8) hours off with pay on the date of the holiday. However, in the interest of continuing essential municipal services, any city employee may be required to work on any holiday. Working on any holiday is a condition of employment for all city employees.
- (4) No employee shall be authorized to work on a holiday without the prior command or approval of the head of the department for whom the employee works. However, the board of mayor and aldermen may from time to time prescribe such other rules, regulations and limitations on overtime work as it desires.
- (5) Any employee who is absent without leave on any working day immediately preceding or immediately following any holiday shall not be entitled to be paid for such holiday. (1989 Code, § 1-603)
- **4-104.** <u>Vacation leave</u>. (1) All regular and full-time employees of the city who have been employed by the city for one full year of continuous service shall be allowed vacation leave time with pay according to the following schedule:

Annual Vacation Leave Time
5 working days 10 working days

For vacation leave purposes the term "working day" as it applies herein shall be computed on an eight (8) hours basis.

(2) Vacation leave compensation shall be computed at the employee's regular straight time pay rate in effect as of the date that the vacation leave time is earned.

- (3) The date of service to be used in determining vacation leave time accrual rate is the beginning date of the employee's current period of continuous service or the date on which the employee was initially employed or appointed, whichever is more recent.
- (4) An employee shall not be eligible to take vacation leave until he or she has had one (1) year continuous employment.
 - (5) Vacation leave may not be taken before it is earned.
- (6) Temporary, casual or part-time employees are not eligible for accrual of vacation leave.
- (7) For vacation purposes, any reinstated employee shall be considered as a new employee regardless of the reason for separation.
- (8) Earned vacation leave may be taken in whole or in part throughout the year at such times as may be approved by the head of the department for which such employee works. No less than one (1) day may be taken at any one time. In the case of employees who handle receipt of payments of taxes, water bills, court fines, or other funds being paid over to the city, such employees shall not take any vacation time of less than five (5) days at one period.
- (9) No more than twenty (20) eight (8) hour days of vacation leave may be accumulated by any employee.
- (10) Any official holiday falling within a period of vacation leave shall be charged as holiday leave rather than vacation leave.
- (11) Any regular, full-time employee who is separated from employment with the city for any reason, including retirement, may receive terminal vacation leave pay for any unused portion of his or her accumulated vacation leave up to the limit of vacation leave allowed to be accumulated under this chapter. (1989 Code, § 1-604, as amended by Ord. #46-05, Sept. 2005)
- 4-105. Sick leave. (1) All full-time employees of the city shall be allowed to accumulate sick leave with pay at the rate of one (1) eight (8) hour working day for each full calendar month of service completed up to an unused maximum of forty (40) eight (8) hour working days. Sick leave shall be considered a benefit and privilege and not a right for the employee to use at his or her discretion. Employees, therefore, shall utilize their accumulated sick leave allowance for absences due to personal illness or physical incapacity, personal illness or physical incapacity within the immediate family of the employee (as defined in § 4-105(3)), enforced quarantine of the employee in accordance with community health regulations, disability resulting from pregnancy, childbirth or related medical conditions, or so to keep an appointment with a licensed medical doctor, dentist, or other recognized health care practitioner.
- (2) The board of mayor and aldermen may, in its discretion, prescribe regulations requiring that a health care practitioner's certificate or other satisfactory evidence be filed with the city supporting the absence before it may be properly chargeable as sick leave.

- (3) For sick leave purposes the term "working day" as it applies in this section shall be computed on an eight (8) hour basis. The term "immediate family" shall be defined as spouse, children, parents, brothers and sisters, and grandparents, both of the employee and spouse of the employee.
- (4) Sick leave compensation shall be figured at the employee's straight time pay rate in effect at the date it is used by the employee.
- (5) The date of service to be used in determining sick leave time accrual rate is the beginning date of the employee's current period of continuous service or the date on which the employee was initially employed or appointed, whichever is more recent.
- (6) Sick leave shall begin to accrue on the first day of the month next following the first full calendar month of employment.
- (7) Temporary, casual or part-time employees are not eligible for accrual of sick leave.
- (8) For sick leave purposes any reinstated employee shall be considered as a new employee regardless of the reason for his or her separation.
- (9) Any employee who abuses these sick leave provisions or who deliberately makes or cause to be made any false or misleading statement or claim concerning the same, shall be subject to the loss of any such benefits, dismissal from his or her employment with the city or other disciplinary action.
- (10) Any employee of the city who is injured when engaging in his employment for the city may be carried on sick leave for any accumulated sick leave that he or she has to his or her credit, but in no case shall any employee be allowed to receive sick leave pay while drawing any workers compensation or other disability payments resulting from any benefit provided by the city. (1989 Code, § 1-605, as amended by Ord. #46-05, Sept. 2005)
- 4-106. Absence without leave. An absence without leave is an absence from duty which was not authorized or approved and for which either a request for leave was not made by the employee, or when made such request was denied. Under such circumstances any employee may be subject to such disciplinary action, including termination from employment with the city, as the board of mayor and aldermen deems necessary or appropriate. (1989 Code, § 1-606)
- 4-107. Absence without pay. An absence without pay is an absence which may or may not have been known and which has resulted from suspension, abandonment of position, or leave without pay granted by the city. The heads of all departments shall be responsible for maintaining accurate records of any employee who is absent from duty for any reason and shall promptly report the same to the mayor. (1989 Code, § 1-607)
- **4-108.** Leave without pay. A regular or part-time employee who is in good standing may be granted a leave without pay for a period not to exceed

ninety (90) calendar days in any one calendar year upon the approval of the board of mayor and aldermen. (1989 Code, \S 1-608)

PERSONNEL REGULATIONS

SECTION

- 4-201. Applicability of chapter.
- 4-202. Acceptance of gratuities.
- 4-203. Outside employment.
- 4-204. Use of municipal time, facilities, etc.
- 4-205. Use of position.
- 4-206. Strikes.
- 4-207. Discrimination prohibited.
- **4-201.** Applicability of chapter. This chapter shall apply to all full-time city officers and employees. (1989 Code, § 1-701)
- 4-202. Acceptance of gratuities. No city officer or employee shall accept any money or other consideration or favor from anyone other than the city for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to city business. (1989 Code, § 1-702)
- **4-203.** Outside employment. No full-time officer or employee of the city shall continue any outside employment if the work interferes with the satisfactory performance of the officer's or employee's duties. In addition, no such employee shall accept any outside employment if the work is incompatible with his city employment, or is likely to cast discredit upon or create embarrassment for the city. (1989 Code, § 1-703)
- **4-204.** Use of municipal time, facilities, etc. No city officer or employee shall use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself or any other private person or group. (1989 Code, § 1-704)
- 4-205. <u>Use of position</u>. No city officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the city, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (1989 Code, § 1-705)
- **4-206.** Strikes. No city officer or employee shall participate in any strike against the city. (1989 Code, § 1-706)

4-207. <u>Discrimination prohibited</u>. The City of Puryear is an equal opportunity employer. Illegal discrimination will not be tolerated.

The City of Puryear will not discharge or fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, sex, or national origin, or because the individual is forty (40) or more years of age.

The City of Puryear will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, and other terms, condition, and privileges of employment.

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-301. Enforcement.
- 4-302. Travel policy.
- 4-303. Travel reimbursement rate schedule.
- 4-304. Administrative procedures.
- **4-301.** Enforcement. The chief administrative officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #16-93, July 1993)
- 4-302. <u>Travel policy</u>. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.
- (2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.
- (3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

- (4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.
- (5) The travel expense reimbursement form will be used to document all expense claims.
 - (6) To qualify for reimbursement, travel expenses must be:

- (a) Directly related to the conduct of the city business for which travel was authorized, and
- (b) Actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances. Expenses considered excessive won't be allowed.
- (7) Claims of \$5 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.
- (8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.
- (9) Mileage and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement. (Ord. #16-93, July 1993)
- **4-303.** <u>Travel reimbursement rate schedules</u>. Authorized travelers shall be reimbursed according to the state travel regulation rates. The city's travel reimbursement rates will automatically change when the state rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #16-93, July 1993)

4-304. Administrative procedures. The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #16-93, July 1993)

SOCIAL SECURITY

SECTION

4-401. Election workers excluded from coverage.

4-401. Election workers excluded from coverage. The mayor is authorized and directed to execute an amendment to said agreement of 01/01/56 to exclude from coverage under the Federal System of Old Age, Survivors, Disability, Health Insurance, the services of an election worker and an election official if the remuneration paid for such services in a calendar year is less than \$1,000 on or after January 1, 1995, ending on or December 31, 1999 and, the adjusted amount determined under section 218 (c)(8)(B) of the Social Security Act for any calendar year, commencing on or after January 1, 2000, with respect to services performed during any such calendar year. This exclusion to be effective in and after a calendar year in which a state's modification is mailed, or delivered by other means, to the appropriate federal official. (Ord. #20-94, Dec. 1994)

SEXUAL HARASSMENT POLICY

SECTION

- 4-501. Policy statement.
- 4-502. Definition.
- 4-503. Employee complaints.
- 4-504. Investigation.
- **4-501.** Policy statement. The City of Puryear has a strict policy against sexual harassment. Sexual harassment by any employee will not be tolerated.
- **4-502.** <u>**Definition**</u>. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's supervisor(s) or fellow employees or others at the work place that adversely affects an employee's job or job performance.

Examples of conduct that may constitute sexual harassment are: sexual advances, requests for sexual favors, propositions, physical touching, sexually provocative language, sexual jokes, and display of sexually-oriented pictures or photographs.

- 4-503. Employee complaints. Any employee who believes that he or she has been subjected to sexual harassment should immediately report this to the mayor or city recorder. The City of Puryear will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee who makes a claim of sexual harassment or who is a witness to the harassment.
- **4-504.** <u>Investigation</u>. The City of Puryear will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. In doing the investigation the City of Puryear will try to be fair to all parties involved.

If the City of Puryear determines that sexual harassment has occurred, corrective action will be taken. This corrective action may include a reprimand, demotion, discharge, or other appropriate action. The City of Puryear will attempt to make the corrective action reflect the severity of the conduct.

If it is determined that no harassment has occurred or that there is not sufficient evidence that harassment occurred, this will be communicated to the employee who made the complaint, along with the reasons for this determination.

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-601. Purpose and coverage.
- 4-602. Definitions.
- 4-603. Employer's rights and duties.
- 4-604. Employee's rights and duties.
- 4-605. Administration.
- 4-606. Standards authorized.
- 4-607. Variance procedure.
- 4-608. Recordkeeping and reporting.
- 4-609. Employee complaint procedure.
- 4-610. Education and training.
- 4-611. General inspection procedures.
- 4-612. Imminent danger procedures.
- 4-613. Abatement orders and hearings.
- 4-614. Penalties.
- 4-615. Confidentiality of privileged information.
- 4-616. Compliance with other laws not excused.
- **4-601.** Purpose and coverage. The purpose of this plan is to provide guidelines and procedures for implementing the occupational safety and health program for the employees of Puryear.

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

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

- (1) Provide a safe and healthful place and condition of employment.
- (2) Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the commissioner of labor and workforce development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the director of the division of occupational safety and health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the commissioner of labor and workforce development or his designated representative with regard to the adequacy of the form and content of such records.
- (5) Consult with the commissioner of labor and workforce development regarding safety and health problems which are considered to be unusual or

peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.

- (6) Assist the commissioner of labor and workforce development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.
- (7) Make a report to the commissioner of labor and workforce development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.
- (8) Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health. (as added by Ord. #44-05-B, April 2005)
- **4-602. Definitions**. For the purposes of this program, the following definitions apply:
- (1) "ACT" or "TOSHAct" shall mean the Tennessee Occupational Safety and Health Act of 1972.
- (2) "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.
- (3) "Chief executive officer" means the chief administrative official, county judge, county chairman, mayor, city manager, general manager, etc., as may be applicable.
- (4) "Commissioner of labor and workforce development" means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor and workforce development.
- (5) "Director of occupational safety and health" or "director" means the person designated by the establishing ordinance or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of City of Puryear.
- (6) "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

- (7) "Employer" means the City of Puryear and includes each administrative department, board, commission, division, or other agency of the City of Puryear.
- (8) "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- (9) "Governing body" means the county quarterly court, board of aldermen, board of commissioners, city or town council, board of governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- (10) "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- (11) "Inspector(s)" means the individual(s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.
- (12) "Person" means one (1) or more individual, partnership, association, corporation, business trust, or legal representative of any organized group of persons.
- (13) "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - (a) A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced); or
 - (b) A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

(14) "Standard" means an occupational safety and health standard promulgated by the commissioner of labor and workforce development in accordance with section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one (1) or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment. (as added by Ord. #44-05-B, April 2005)

- **4-603.** Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to, the following provisions:
- (1) Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- (2) Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- (3) Employer shall refrain from any unreasonable restraint on the right of the commissioner of labor and workforce development to inspect the employer's place(s) of business. Employer shall assist the commissioner of labor and workforce development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- (4) Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- (5) Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- (6) Employer is entitled to protection of its legally privileged communication.
- (7) Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.
- (8) Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- (9) Employer shall notify all employees of their rights and duties under this program. (as added by Ord. #44-05-B, April 2005)
- **4-604.** Employee's rights and duties. Rights and duties of employees shall include, but are not limited to, the following provisions:
- (1) Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- (2) Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHAct or any standard or regulation promulgated under the Act.

- (3) Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- (4) Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the commissioner of labor and workforce development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- (5) Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- (6) Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the director or inspector at the time of the physical inspection of the worksite.
- (7) Any employee may bring to the attention of the director any violation or suspected violations of the standards or any other health or safety hazards.
- (8) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.
- (9) Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (8) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the commissioner of labor and workforce development alleging such discrimination.
- (10) Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.
- (11) Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the director within twenty-four (24) hours after the occurrence. (as added by Ord. #44-05-B, April 2005)
- **4-605.** <u>Administration</u>. (1) The director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program.

- (a) The director may designate a person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.
- (b) The director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the director.
- (c) The director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.
- (d) The director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.
- (e) The director shall prepare the report to the commissioner of labor and workforce development required by § 4-601(7) of this plan.
- (f) The director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
- (g) The director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
- (h) The director shall maintain or cause to be maintained records required under § 4-608 of this plan.
- (i) The director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three (3) or more employees, insure that the commissioner of labor and workforce development receives notification of the occurrence within eight (8) hours.
- (2) The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.
 - (a) The administrative or operational head shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this plan.
 - (b) The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.
 - (c) The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to

become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.

- (d) The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with Appendix V¹ of this plan. (as added by Ord. #44-05-B, April 2005)
- 4-606. <u>Standards authorized</u>. The standards adopted under this program are the applicable standards developed and promulgated under section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. (as added by Ord. #44-05-B, April 2005)
- **4-607.** <u>Variance procedure</u>. The director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The director should definitely believe that a variance is needed before the application for a variance is submitted to the commissioner of labor and workforce development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- (1) The application for a variance shall be prepared in writing and shall contain:
 - (a) A specification of the standard or portion thereof from which the variance is sought.
 - (b) A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 - (c) A statement of the steps the employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 - (d) A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 - (e) A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other

¹Appendix V is included in this municipal code in Appendix A.

appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the commissioner of labor and workforce development for a hearing.

- (2) The application for a variance should be sent to the commissioner of labor and workforce development by registered or certified mail.
- (3) The commissioner of labor and workforce development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
 - (a) The employer:
 - (i) Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - (ii) Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - (iii) Has an effective program for coming into compliance with the standard as quickly as possible.
 - (b) The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.
- (4) A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- (5) Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- (6) The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (1)(e) of this section). (as added by Ord. #44-05-B, April 2005)
- 4-608. <u>Recordkeeping and reporting</u>. (1) Recording and reporting of all occupational accidents, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, <u>Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970</u> (Revised 2003) or as may be prescribed by the Tennessee Department of Labor and Workforce Development.

- (2) The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix V¹ to this plan.
- (3) Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix V to this plan. (as added by Ord. #44-05-B, April 2005)
- **4-609.** Employee complaint procedure. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the director of occupational safety and health.
- (1) The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see § 4-601(8) of this plan).
- (2) Upon receipt of the complaint letter, the director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- (3) If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- (4) The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- (5) After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the commissioner of labor and workforce development. Any complaint filed with the commissioner of labor and workforce development in such cases shall include

¹Appendix V is included in this municipal code in Appendix A.

copies of all related correspondence with the director and the chief executive officer or the representative of the governing body.

- (6) Copies of all complaints and answers thereto will be filed by the director who shall make them available to the commissioner of labor and workforce development or his designated representative upon request. (as added by Ord. #44-05-B, April 2005)
 - **4-610.** Education and training. (1) Director and/or compliance inspector(s). (a) Arrangements will be made for the director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.
 - (b) Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- (2) <u>All employees (including managers and supervisory personnel)</u>. A suitable safety and health training program for employees will be established. This program will, as a minimum:
 - (a) Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employee's work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury (such as falls, electrocution, crushing injuries (e.g., trench cave-ins), and being struck by material or equipment).
 - (b) Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances (including carbon monoxide and chlorine) in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.
 - (c) Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
 - (d) Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in subparts H and M and other applicable subparts of TOSHAct standards (1910 and/or 1926).
 - (e) Instruct employees on hazards and dangers of confined or enclosed spaces.
 - (i) Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient

- atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
- (ii) Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
- (iii) The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment. (as added by Ord. #44-05-B, April 2005)
- 4-611. General inspection procedures. It is the intention of the governing body and responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.
- (1) In order to carry out the purposes of this program, the director and/or compliance inspector(s), if appointed, is authorized:
 - (a) To enter at any reasonable time any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer; and
 - (b) To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- (2) If an imminent danger situation is found, alleged, or otherwise brought to the attention of the director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with § 4-612 of this plan before inspecting the remaining portions of the establishment, facility, or worksite.

- (3) An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- (4) The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- (5) The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- (6) Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
 - (7) Advance notice of inspections. (a) Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.
 - (b) There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- (8) The director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 - (a) Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.
 - (b) Records are made of the inspections and of any discrepancies found and are forwarded to the director.
- (9) The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the commissioner of labor and workforce development or his authorized representative. (as added by Ord. #44-05-B, April 2005)
- **4-612.** <u>Imminent danger procedures</u>. (1) Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 - (a) The director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 - (b) If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 - (c) As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the

director or compliance inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

- (d) The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director or compliance inspector and to the mutual satisfaction of all parties involved.
 - (e) The imminent danger shall be deemed abated if:
 - (i) The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - (ii) Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
- (f) A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with § 4-611(9) of this plan.
- (2) <u>Refusal to abate</u>. (a) Any refusal to abate an imminent danger situation shall be reported to the director and/or chief executive officer immediately.
- (b) The director and/or chief executive officer shall take whatever action may be necessary to achieve abatement. (as added by Ord. #44-05-B, April 2005)
- **4-613.** Abatement orders and hearings. (1) Whenever, as a result of an inspection or investigation, the director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the director shall:
 - (a) Issue an abatement order to the head of the worksite.
 - (b) Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
 - (2) Abatement orders shall contain the following information:
 - (a) The standard, rule, or regulation which was found to be violated.
 - (b) A description of the nature and location of the violation.
 - (c) A description of what is required to abate or correct the violation.
 - (d) A reasonable period of time during which the violation must be abated or corrected.

- (3) At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final. (as added by Ord. #44-05-B, April 2005)
- **4-614. Penalties**. (1) No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.
- (2) Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one (1) of the following ways as appropriate and warranted:
 - (a) Oral reprimand;
 - (b) Written reprimand;
 - (c) Suspension for three (3) or more working days;
 - (d) Termination of employment. (as added by Ord. #44-05-B, April 2005)
- 4-615. <u>Confidentiality of privileged information</u>. All information obtained by or reported to the director pursuant to this plan of operation or the legislation (ordinance or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the commissioner of labor and workforce development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972. (as added by Ord. #44-05-B, April 2005)
- 4-616. <u>Compliance with other laws not excused</u>. (1) Compliance with any other law, statute, ordinance, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.
- (2) Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the

employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed. (as added by Ord. #44-05-B, April 2005)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

- 1. REAL AND PERSONAL PROPERTY TAXES.
- 2. WHOLESALE BEER TAX.

CHAPTER 1

REAL AND PERSONAL PROPERTY TAXES

SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

5-201. When due and payable.² Taxes levied by the city against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied. (1989 Code, § 6-101)

5-202. When delinquent—penalty and interest.³ All real property taxes shall become delinquent on and after the first day of March next after they

¹Charter references: §§ 33-39.

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.

³Charter and state law reference

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

²State law references

become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the charter. (1989 Code, § 6-102)

¹Charter and state law references

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

⁽¹⁾ Under the provisions of its charter for the collection of delinquent property taxes.

⁽²⁾ Under Tennessee Code Annotated, §§ 6-55-201--6-55-206.

⁽³⁾ By the county trustee under <u>Tennessee Code Annotated</u>, § 67-5-2005.

WHOLESALE BEER TAX

SECTION

5-201. To be collected.

5-201. To be collected. The city 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 <u>Tennessee Code Annotated</u>, title 57, chapter 6.¹ (1989 Code, § 6-201)

¹State law reference

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

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.

CHAPTER 1

POLICE AND ARREST¹

SECTION

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. When policemen to make arrests.
- 6-104. Disposition of persons arrested.
- 6-105. Police department records.
- **6-101.** Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1989 Code, § 1-401)
- **6-102.** Policemen to preserve law and order, etc. Policemen shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trail of cases. Policemen shall also promptly serve any legal process issued by the city court. (1989 Code, § 1-402)
- **6-103.** When policemen to make arrests¹. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:
- (1) Whenever he is in possession of a warrant for the arrest of the person.
- (2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.
- (3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1989 Code, § 1-403)
- **6-104.** Disposition of persons arrested. (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other city ordinances shall be brought before the city court.

¹Municipal code reference

Traffic citations, etc.: title 15, chapter 7.

However, if the city court is not in session, the arrested person shall be allowed to post bond with the city court clerk, or, if the city court clerk is not available, with the ranking police officer on duty. If the arrested person fails or refuses to post bond, he shall be confined pending his release by the city judge. In addition, if the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

- (2) <u>Felonies or misdemeanors</u>. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender. (1989 Code, § 1-404)
- **6-105.** Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing:
- $(1) \qquad All \, known \, or \, reported \, of fenses \, and/or \, crimes \, committed \, within \, the \, corporate \, limits.$
 - (2) All arrests made by policemen.
- (3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1989 Code, § 1-405)

TITLE 7

FIRE PROTECTION AND FIREWORKS

CHAPTER

- 1. MISCELLANEOUS.
- 2. VOLUNTEER FIRE DEPARTMENT.
- 3. FIRE SERVICE OUTSIDE CITY LIMITS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 7-101. Storage of explosives, flammable liquids, liquified petroleum gas.
- 7-102. Fireworks.
- 7-103. Gasoline trucks.
- 7-104. Fire hydrants.
- 7-101. Storage of explosives, flammable liquids, liquified petroleum gas. The storage of explosives and blasting agents at any location within the corporate limits is prohibited.

Storage of quantities of more than 150 gallons of flammable liquids in outside above ground tanks must be provided with fire protection in accordance with nationally recognized standards.

Storage of quantities of more than 2,000 gallons water capacity of liquid petroleum gas must be provided with fire protection in accordance with nationally recognized standards. (1989 Code, § 7-101)

7-102. <u>Fireworks</u>. The manufacture, distribution, warehousing, or sale of fireworks at any location within the corporate limits is prohibited.

The discharge of any fireworks at any location other than on the sidewalks, streets, alleys, or public ways, or in any public park, public building, or place of public gathering is permitted provided that the chief of the fire department may prohibit the discharge of fireworks at all locations within the corporate limits when atmospheric or local circumstances make such discharges hazardous. (1989 Code, § 7-102)

7-103. <u>Gasoline trucks</u>. No person shall operate or park any gasoline tank truck in any business or residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1989 Code, § 7-103)

7-104. Fire hydrants. The capacity indicating color scheme that the city shall have for fire hydrants, which are on the city's system, shall be as follows:

$\underline{\text{Color}}$	$\underline{\text{Class}}$	Flow at 20 psig residual
Green Orange	A B	1000 gpm or more 500 to 1000 gpm
Red	\mathbf{C}	Less than 500 gpm

(Ord. #14-92, Oct. 1992)

VOLUNTEER FIRE DEPARTMENT¹

SECTION

- 7-201. Establishment, equipment, and membership.
- 7-202. Objectives.
- 7-203. Organization, rules, and regulations.
- 7-204. Records and reports.
- 7-205. Chief responsible for training and maintenance.
- 7-206. Chief to be assistant to state officer.
- 7-201. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations by the board of mayor and aldermen. Any and all gifts to the volunteer fire department shall be turned over to, and become the property of, the town. All other apparatus, equipment, and supplies of the volunteer fire department shall be purchased by or through the city and shall be and remain the property of the city. The volunteer fire department shall be composed of a chief and such number of subordinate officers and firemen as the fire chief shall determine. All members of the volunteer fire department shall be approved by the board of mayor and aldermen. (1989 Code, § 7-201)
- **7-202.** <u>Objectives</u>. The volunteer fire department shall have as its objectives:
 - (1) To prevent uncontrolled fires from starting.
 - (2) To prevent the loss of life and property because of fires.
 - (3) To confine fires to their places of origin.
 - (4) To extinguish uncontrolled fires.
 - (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1989 Code, § 7-202)
- **7-203.** Organization, rules, and regulations. The chief of the volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the department. All such rules and regulations shall be approved by the board of mayor and aldermen. (1989 Code, § 7-203)

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

¹Municipal code reference

- **7-204.** Records and reports. The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on those matters to the mayor as the mayor requires. The mayor shall submit reports on those matters to the board of mayor and aldermen, as the board or mayor and aldermen requires. (1989 Code, § 7-204)
- **7-205.** Chief responsible for training and maintenance. The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the board of mayor and aldermen. (1989 Code, § 7-205)
- 7-206. 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. (1989 Code, § 7-206)

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-301. Restrictions on fire service outside city limits.

7-302. Rural fire protection agreements.

7-301. <u>Restrictions on fire service outside city limits</u>. No personnel or equipment of the fire department shall be used for fighting any fire outside the city limits unless the fire is on city property or, in the opinion of the fire chief, is in such hazardous proximity to property owned or located within the city as to endanger the city property, or unless the board of mayor and aldermen has developed policies for providing emergency services outside of the city limits or entered into a contract or mutual aid agreement pursuant to the authority of:

(1) The Local Government Emergency Assistance Act of 1987, Public Acts of 1987, Chapter 155.¹

¹State law references

Tennessee Code Annotated, § 58-2-601, et seq., as amended by Public Acts 1988, Ch. 499, authorizes any municipality or other local governmental entity to go outside of its boundaries in response to a request for emergency assistance by another local government. It does not create a duty to respond to or to stay at the scene of an emergency outside its jurisdiction.

This statute, as amended, does not require written agreements between the local governments, but authorizes them to develop policies and procedures for requesting and responding to requests for emergency assistance, including provisions for compensation for service rendered.

The statute specifies which municipal officers may request and respond to requests for emergency assistance and provides for the appointment by municipal governing bodies of additional municipal officers with the same authority.

The statute provides that the senior officer of the requesting party will be in command at the scene of the emergency.

The statute outlines the liabilities of the requesting and responding governments as follows: (1) Neither the responding party nor its (continued...)

- (2) Tennessee Code Annotated, § 12-9-101, et seq.¹
- (3) Tennessee Code Annotated, § 6-54-601.²
- 7-302. Rural fire protection agreements. (1) Mayor authorized to enter into rural fire protection agreements on behalf of the city. The Mayor of Puryear is hereby authorized to enter into fire protection agreements with owners and tenants of rural properties located within five (5) miles of the Puryear corporate limits. The form of such agreements shall be as approved by the board of mayor and aldermen.
- (2) <u>Authorization to respond</u>. The Puryear Volunteer Fire Department is hereby authorized to provide fire protection services to all rural property owners and tenants who have entered into a fire protection agreement with the City of Puryear pursuant to subsection (1) of this section.

(...continued)

employees shall be liable for any property damage or bodily injury at the actual scene of any emergency due to actions performed in responding to a request for emergency assistance; (2) The requesting party is not liable for damages to the equipment and personnel of the responding party in response to the request for emergency assistance; and (3) Neither the requesting party nor its employees is liable for damages caused by the negligence of the personnel of the responding party while en route to or from the scene of the emergency.

¹State law reference

Tennessee Code Annotated, § 12-9-101 et seq. is the Interlocal Cooperation Act which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

²State law reference

Tennessee Code Annotated, § 6-54-601 authorizes municipalities (1) To enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with fire fighting assistance. (2) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance. (3) Provide fire protection outside their city limits to either citizens on an individual contractual basis, or to citizens in an area without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)

- (3) <u>In-town fires to be given priority</u>. The Puryear Fire Chief is hereby directed to give priority attention to fires and related emergencies occurring within the corporate city limits of Puryear. The Puryear Fire Department shall provide a full and complete response to in-town emergencies at all times and may delay or curtail responses to out-of-town calls for service when, in the opinion of the fire chief, an in-town emergency does not permit responding to an out-of-town emergency.
- (4) <u>Fee schedule</u>. Out-of-town property owners shall pay for services provided by the Puryear Fire Department according to the following schedule:

	•	_
(a)	Residences, including outbuildings	\$1,000.00
(b)	Commercial structures	\$1,000.00
(c)	Industrial structures	\$1,000.00
(d)	Vehicle/farm implement fire	\$1,000.00
(e)	Grass fire	\$1,000.00
(f)	Chemical fire, chemical spill	\$1,000.00
(g)	Automobile accident	\$1,000.00

(as added by Ord. #52-06, Dec. 2006)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

- 1. INTOXICATING LIQUORS.
- 2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this city. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1989 Code, § 2-101)

¹State law reference Tennessee Code Annotated, title 57.

²State law reference Tennessee Code Annotated, title 39, chapter 17.

$BEER^1$

SECTION

- 8-201. Creation, organization, etc. of beer board.
- 8-202. Rules and regulations of the board.
- 8-203. Permit required.
- 8-204. Enforcement of chapter.
- 8-205. Applications for beer permits.
- 8-206. Restrictions on licenses.
- 8-207. Investigation and examination of applicants.
- 8-208. Term of permit; classification; permit to be posted.
- 8-209. Records of permits.
- 8-210. Prohibited acts, acts required.
- 8-211. Minors.
- 8-212. Procedures for revocation.
- 8-213. Penalties; revocation and suspension period.
- 8-214. Judicial review of the beer board action.
- 8-215. Civil penalty in lieu of suspension or revocation.
- 8-216. Wholesale beer tax.
- 8-217. Privilege tax.

8-201. <u>Creation, organization, etc. of beer board</u>. There is hereby created a board of five (5) members, to be known as the Beer Board of the City of Puryear, Tennessee. All four (4) elected aldermen and the elected mayor shall constitute the membership of said beer board. Terms of the members of the beer board shall correspond to the terms of offices for said aldermen and mayor.

Regular meetings of the beer board shall be held on the second Tuesday of each month at 6:30 P.M. at the city hall.

The mayor shall serve as chairman of the board and the city recorder shall serve as secretary for the board. Minutes shall be kept of the meetings in permanent form and a record shall be kept of the action of the board with respect to every application for a permit. The concurring vote of at least three (3) members of the board shall be necessary to the approving, revocation, or suspension of any permit. Minute books of the board shall be a public record, and shall become a part of the records of the city recorder of the City of Puryear, Tennessee. (Ord. #17-93, Nov. 1993)

¹State law reference

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

- 8-202. Rules and regulations of the board. The beer board is authorized and empowered to adopt such reasonable rules and regulations as it or a majority thereof may deem necessary and proper for the operation and supervision of the business of the permittee. Provided, however, that such rules and regulations must be submitted to the board of aldermen of the City of Puryear, Tennessee, for approval before they have any force and effect. (Ord. #17-93, Nov. 1993)
- 8-203. <u>Permit required</u>. (1) It shall be unlawful to manufacture, distribute, sell or offer to sell, at wholesale or retail, in the City of Puryear, Tennessee, any beer or alcoholic beverage, of an alcoholic content of not more than five percent (5%) by weight, without having a permit under the provisions of this chapter, on in violation of the terms of this chapter.
- (2) There shall be only one (1) permit issued for each location regulated by the terms of this chapter. The permit granted under this chapter shall be issued only to:
 - (a) Where the applicant is a sole proprietorship only to the owner of the business, or to any on-premises manager.
 - (b) Where the applicant is a partnership, only to a managing partner or to an on-premises manager.
 - (c) Where the applicant is a corporation only to the on-premises manager of the corporate location. (Ord. #17-93, Nov. 1993)
- **8-204.** Enforcement of chapter. The beer board shall have full power to enforce the provisions of this chapter and to investigate reported violations thereof, and for this purpose is authorized to utilize the full facilities of the police department. (Ord. #17-93, Nov. 1993)
- 8-205. <u>Applications for beer permits</u>. All applications shall be made on a form prescribed by the beer board in conformity with the requirements of this section, and shall be filed with the board at least ten (10) days before approval for issuance.

All applications for permits shall be made in writing and signed by the applicant, or the duly authorized agent of a club or corporation, verified by oath or affidavit, and shall contain the following statements and information:

- (1) The name, age, and address of the applicant in case of an individual; in the case of a partnership, the persons entitled to share in the profits thereof; and in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and if a majority interest of the stock of such corporation is owned by one person, the name and address of such person.
- (2) The citizenship of the applicant, his place of birth, and if a naturalized citizen, the time and place of his naturalization.

- (3) The character of business of the applicant and the length of time said applicant has been in business of that character, or in the case of a corporation, the date when its charter was issued.
- (4) The location and description of the premises or place of business which is to be operated under said permit.
- (5) A statement whether the applicant has made application for a similar or other permit on premises other than described in this application, and the disposition of such application.
- (6) Whether a previous or similar license by any state or subdivision thereof, has been revoked or suspended, and the reasons therefor. (Ord. #17-93, Nov. 1993)

8-206. Restrictions on licenses. No permit shall be issued to:

- (1) A person who has been convicted of any violation of the laws provided by the State of Tennessee, or any other state, prohibiting the possession, sale, manufacture, or transportation of intoxicating beverages, or any felony, within the past ten (10) years.
- (2) An applicant whose license under this chapter has been revoked or suspended for cause, including an applicant whose place of business is conducted by a manager or agent, even if said manager or agent possesses sufficient qualifications to be issued a permit under this chapter. Provided, however, that the board may, in its discretion, issue a license to such applicant for a probationary period to be determined by the board if, in the board's sole discretion, circumstances warrant the granting of said application.
- (3) An applicant, who at the time of application for renewal of any license issued hereunder, would not be eligible for such license upon a first application.
- (4) A partnership, unless all the members of such partnership shall be qualified to obtain a license. A corporation, its officers, managerial director thereof, or any stockholder or stockholders owning in the aggregate of more than five percent (5%) of the stock of such corporation, would not be eligible to receive a permit hereunder for any reason.
- (5) An applicant whose place of business is conducted by manager or agent, unless said manager or agent possesses the same qualifications required of the applicant.
- (6) Any employee of the city, mayor, aldermen, city recorder, city attorney, city judge, or any other such elected or appointed official of the city, who shall be interested in any way, either directly or indirectly, in the manufacture, sale, or distribution of alcoholic beverages as defined in this chapter.
- (7) An applicant whose place of business does not meet the requirements of any other section of this chapter, or who is not a good character and reputation in this community.

- (8) An applicant whose place of business is two hundred fifty (250) feet or nearer to the nearest property line of any church, school, public playground and public park. The distances shall be measured in a straight line¹ from the nearest point upon the property line from which the beer will be sold, manufactured or stored to the nearest point on the property line of the church, school, public playground or public park. Provided, however, that any business established prior to the effective date of this chapter may be continued. When a business not conforming with the provisions of this section is discontinued or abandoned for a period of one hundred eighty (180) consecutive days, then no application for a business not in conformance with the provisions of this section shall thereafter be approved.
- (9) An applicant who has not reached the age of twenty-one (21) years of age at the time the application is submitted to the board. Provided, however, that any applicant who holds a permit under this chapter prior to the effective date of this chapter shall continue as a permit holder. (Ord. #17-93, Nov. 1993)
- 8-207. Investigation and examination of applicants. The beer board shall have the right to examine, or cause to be examined, any applicant for a permit or for a renewal thereof, to determine the validity of the statements made in any application, and to examine or cause to be examined the books and records of any such applicant. Any applicant making any false statement of any material fact in his application shall forfeit any permit received and shall not be eligible to receive another permit for a period of ten (10) years thereafter. Said fee shall be in the form of a cashier's check payable to the City of Puryear. An application fee of two hundred and fifty dollars (\$250.00) for use in offsetting the expense of investigating the applicant shall be charged pursuant to Tennessee Code Annotated, § 57-5-104(a) on any original application for a permit, provided, however, that such fee shall not be charged for renewal of an existing permit, an application for a new location from an applicant already a permit holder under this chapter, or by an applicant who is a manager of an establishment under this chapter that is currently holding a permit under this chapter. Regardless of whether or not an application is approved or denied, any portion of the fee collected in excess of that actually used in the investigation shall be the property of the City of Puryear and deposited in the general fund. (Ord. #17-93, Nov. 1993)

8-208. Term of permit; classification; permit to be posted.

(1) There shall be two (2) classes of permits issued by the board, as follows:

¹State law reference

See <u>Watkins v. Naifeh</u>, 625 S. W. 2d 104 (1982) and other cases cited therein which establish the straight line method of measurement.

- Class A: An "off-premises" permit to any applicant engaged in the sale of alcoholic beverages where they are not to be consumed by the purchaser upon or near the premises of such seller. All "off-premises" permits shall only be issued hereafter to applicants for locations immediately adjacent to Highway 641 and shall be known as the "off-premises" permit zone.
- Class B: An "on-premises" permit to any applicant engaged in the sale of alcoholic beverages where they are consumed by the purchaser or his guest upon the premises of the seller. No permit for any "on-premises" permit shall be issued to any applicant other than those whose premises ate located in the "on-premises" permit zone that is hereafter defined as all property immediately adjacent to Highway 641 and north of the southern boundary line of property known as Tax Map 29, Parcel 2.00, according to the records of the Tax Assessor of Henry County, Tennessee, and the records of the City of Puryear.
- (2) Surrender of permit upon termination of business. Any permittee who ceases the active operation of a business location offering for sale alcoholic beverages under the provisions of this chapter for a period of greater than thirty (30) days shall be deemed to have surrendered the permit issued under the provisions of this chapter. In addition, when said termination of the business permitted under this chapter shall cease, a permittee shall be required to surrender said permit to the city business office, and any permit not so surrendered shall prohibit the permittee from securing a new permit at a later date without permission of the beer board. The beer board shall further have the power to revoke and remove from the records of the City of Puryear any permits not surrendered, permits of any businesses who have ceased operation under the provisions of this section. (Ord. #17-93, Nov. 1993)
- 8-209. Records of permits. The city recorder shall keep a complete record of all such permits issued and shall furnish the police department with a copy thereof; upon revocation or suspension of any permit the city recorder shall immediately give written notice thereof to the police department. (Ord. #17-93, Nov. 1993)
- **8-210.** Prohibited acts, acts required. The following conduct shall be regulated by the beer board:
- (1) All premises used for the retail sales of beverages covered by this chapter, or for the storage of such beverages for sale, shall be kept in full compliance with ordinances or codes regulating the conditions of premises used for the sale of food for human consumption.

- (2) In premises upon which the sale of beverages for consumption on the premises is permitted, no screen, blind, curtain, partition, article, or thing shall be permitted in the windows or upon the doors of such premises, nor inside said premises, which shall prevent a clear view into the interior of such premises from the street, road or sidewalk at all times, and no booth, screen, partition or other obstruction nor any arrangement of lights or lighting shall be permitted in or about the interior of such premises which shall prevent a clear view of the entire interior from the street. In order to enforce the provisions of this section, the board shall have the right to require the filing of plans, drawings, and photographs showing the clearance of the view as above required. Provided, however, that any business established prior to the effective date of this chapter may be continued. When a business not conforming with the provisions of this section is discontinued or abandoned for a period or one hundred eighty (180) consecutive days, then no application for a business not in conformance with the provisions of this section shall thereafter be approved.
- (3) No person engaging in the business regulated by this chapter shall make or permit to be made the sales to minors. No one employed by him shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture, and transportation of intoxicating liquor, or any felony, within the last ten (10) years.
- (4) No alcoholic beverage shall be sold, offered for sale, or given away between the hours of 3:00 A.M. and 6:00 A.M. No such beverage shall be consumed, or open for consumption, on or about any premises licensed hereunder, in either bottle, glass or other container, after 3:15 A.M. and no premises licensed hereunder shall allow persons on said premises in any manner whatsoever after 4:00 A.M. No such beverage shall be sold, offered for sale, or given away between 3:00 A.M. on Sunday to 12:00 noon on Sunday.
- (5) It shall be unlawful to sell, give or deliver alcoholic beverages to any person under the age of twenty-one (21) years. It shall be unlawful or any permittee or his/her agent or employee to suffer or permit any person under the age of twenty-one (21) years to be or to remain in any room or place where such "on sale" premises is located, providing that this sentence shall not apply to any minor on any licensed premises which derives more than fifty percent (50%) of its revenue from the sale of services or commodities other than alcoholic beverages.
- (6) It shall be unlawful for the holder of any permit issued under this section to sell, deliver or give alcoholic beverages to any intoxicated person.
- (7) It shall be unlawful for the holder of a permit under this chapter to maintain or operate the licensed business in such manner as to be detrimental to the public health, safety or morals.
- (8) It shall be unlawful for the holder of a permit issued under this chapter to violate any of the terms and conditions of any other sections of this chapter.

- (9) If a business ceases operation for any reason, for more than a period of thirty (30) days, then the permit issued shall automatically expire. If a permit holder shall die, then the permit shall expire upon death of the permittee and shall not descent by the laws of testate or intestate devolution, provided, however, that the legal representative of the estate shall be allowed to continue the operation of said business for a period of thirty (30) days from the death of said permittee, during which time the legal representative, or a successor to the business, shall be allowed to apply for a permit without interruption of the business. Provided, further, that for those permit holders whose business is run by a manager and the business' manager holds the permit, and in the event of change of management the business shall be allowed to continue for a period of thirty (30) days from said change of management, during which time the new manager shall be allowed to apply for a permit without interruption of the business conducted by the permittee.
- (10) A permit issued hereunder shall permit the sale of alcoholic beverages only in the premises described in the permit and application. Such location may be changed only upon application to the board and such request for change shall be reviewed as in the manner of a new permit application. No change of location shall be permitted unless the proposed new location is in compliance with the provisions and regulations of this chapter.
- (11) It shall be unlawful for any permittee or any agent thereof, to permit any person under the age of eighteen (18) years to engage in the sale, drawing, pouring, or mixing of any alcoholic beverage in any permitted premises, provided, however, that any permittee holding a Class A permit shall be allowed to employ persons age seventeen (17) years or older for the sale of items regulated by this chapter under the same terms and conditions as employees eighteen (18) years or older as stated previously in this section.
- (12) It shall be unlawful for any permittee or any agent thereof, to allow on the premises described in the permit any type of live entertainment commonly known as "topless" dancing or other types of dancing of either sex, or of both sexes, that are patently obscene because of "nudity" as defined by Tennessee Code Annotated, § 39-17-901(9) as follows:

"Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any portion therefore below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state. (Ord. #17-93, Nov. 1993, modified, as amended by Ord. #32-01, Jan. 2001)

8-211. <u>Minors</u>. It shall be unlawful for any person under the age of twenty-one (21) years of age to purchase or obtain any alcoholic beverage where such beverage is sold. It shall be unlawful for any parent or guardian to permit

any person under the age of twenty-one (21) years of which he/she may be parent or guardian to violate any provision of this section. It shall be unlawful for any person to misrepresent his/her age for the purposes of purchasing or obtaining alcoholic beverages from any premises where a permit has been issued and alcoholic beverages are sold. (Ord. #17-93, Nov. 1993)

- 8-212. Procedures for revocation. The beer board shall have the power to revoke any permits, upon notice to the permittee and hearing thereon, for any violation of any provision of this chapter. Notice of a hearing shall be sent by the city recorder to permittee at least seven (7) days prior to the hearing, stating the particular violations of this chapter upon which the hearing will be held. The board shall examine or cause to be examined, any witnesses, books, records, and may take such testimony as proof as is required and shall have the power to compel the presence of witnesses by the issuance of subpoenas for the purpose of obtaining all information required for such hearing. The permittee shall be entitled to representation by counsel and the board shall keep a full and complete transcript of the proceedings before the board. The board shall make public the date and time of such hearing. At the hearing the permit holder or any other interested person may have the right to present evidence as to the facts of said violation and any other fact which may aid the board in determining whether this chapter has been violated and the purposes of the permit have been abused. At the hearing, if the board determines that a witness or other information necessary for the just determination of the issue before the board is not present, the board may recess the hearing, to a date and time certain not to exceed thirty (30) days, to compel the attendance or witnesses or production of information required for such hearing. If the board determines that the terms and conditions of the permit have been violated, the board shall then proceed to enact such penalties as may be required under § 8-213 of this chapter. (Ord. #17-93, Nov. 1993)
- 8-213. Penalties; revocation and suspension period. (1) If it is determined by the beer board that a violation of this chapter has occurred under the procedures provided for § 8-212, then the board shall revoke any permit, previously granted, for a period of not less than one (1) year. If, however, it should appear to the board that such violation should not result in an outright revocation, but that the permittee should have his/her permit suspended, then the board is specifically authorized to suspend such permit for a period of time said revocation or suspension shall be in effect, and further said revocation or suspension shall preclude the issuance of a permit to any other person or persons, partnerships or corporations, as is more specifically outlined in § 8-205.
- (2) No permit at license shall be revoked on the grounds the holder of any permit, or any person working for the holder of such permit, sells alcoholic beverages to a person over the age of eighteen (18) if such person exhibits an identification, false or otherwise, indicating their age to be twenty-one (21) or

over, if the appearance as to maturity is such that the holder of the permit or his employee might reasonably presume said person to be such age and is unknown to such person making the sale. Said permit may be suspended for a period not to exceed ten (10) days. However, this shall not be construed in any way to relieve the said person from liability for making such an illegal purchase as provided for in § 8-211. (Ord. #17-93, Nov. 1993)

8-214. <u>Judicial review of the beer board action</u>. The action of the beer board in connection with the issuance, revocation or suspension of a permit, may be reviewed by the statutory writ of certiorari, said writ of certiorari to be addressed to the Circuit or Chancery Court of Henry County, Tennessee. Immediately upon the grant of the writ of certiorari, the beer board shall cause to be made, certified and forwarded to said court, a complete transcript of the proceedings before the board.

Said provisions of this section shall be the sold and exclusive remedy and method of review of any action or order that may have been issued by the beer board, including the refusal or failure to grant any license or permit. (Ord. #17-93, Nov. 1993)

- 8-215. Civil penalty in lieu of suspension or revocation. Pursuant to Tennessee Code Annotated, § 57-5-108(a)(2) the board may assess a civil penalty against a permit holder in lieu of suspension or revocation of said permit. Such penalty may be up to one thousand five hundred dollars (\$1500) for each offense of making or allowing sales to minors and up to one thousand dollars (\$1000) for any other violation. The permit holder will have seven days to pay aforementioned penalty before the suspension or revocation takes effect. Payment of the penalty does not effect the permit holders right to seek judicial review of the suspension or revocation pursuant to the general laws of the State of Tennessee. (Ord. #17-93, Nov. 1993)
- 8-216. Wholesale beer tax. The City of Puryear, specifically by this chapter, in addition to the creation of the beer board thereto, does adopt all of the provisions of the wholesale beer tax law that is codified in Tennessee Code Annotated, § 57-6-103. (Ord. #17-93, Nov. 1993)
- 8-217. Privilege tax. Effective January 1, 1994 there is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax an January 1, 1994, and each successive January 1 to the City of Puryear, 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. #17-93, Nov. 1993)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

- 1. PEDDLERS, SOLICITORS, ETC.
- 2. CABLE TELEVISION.
- 3. ADULT ENTERTAINMENT CENTERS.
- 4. SEXUALLY ORIENTED BUSINESSES.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers, street barkers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Violation and penalty.
- **9-101.** <u>Definitions</u>. 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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

²Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-701.

¹Municipal code references

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, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). 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 the 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 vendor¹" 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

<u>Tennessee Code Annotated</u>, § 62-30-101 <u>et seq</u>. contains permit requirements for "transitory vendors."

The definition of "transient vendors" is taken from <u>Tennessee Code Annotated</u>, § 62-30-101(3). Note also that <u>Tennessee Code Annotated</u>, § 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period 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 <u>Tennessee Code Annotated</u>, § 67-4-709(b).

¹State law references

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 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.

- (6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (1989 Code, § 5-101)
- **9-102.** Exemptions. The terms of this chapter shall not 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, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (1989 Code, § 5-102)
- **9-103.** Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, 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. (1989 Code, § 5-103)
- **9-104.** Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the city recorder by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker 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, solicitor or street barker 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) <u>Permit issued</u>. 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) <u>Submission of application form to chief of police</u>. Immediately after the applicant obtains a permit from the city recorder, the city recorder shall submit to the chief of police a copy of the application form and the permit. (1989 Code, § 5-104)
- **9-105.** Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, 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, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city.
- (5) Enter 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. (1989 Code, § 5-105)
- 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. (1989 Code, § 5-106)
- **9-107.** <u>Display of permit</u>. Each peddler, street barker, 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. (1989 Code, § 5-107)

- **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 city 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 city 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. (1989 Code, § 5-108)
- 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 street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. 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. (1989 Code, § 5-109)
- **9-110.** <u>Violation and penalty</u>. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provisions of this municipal code of ordinances. (1989 Code, § 5-110)

CABLE TELEVISION

SECTION

9-201. To be furnished under franchise.

9-201. To be furnished under franchise. Cable television shall be furnished under franchise granted to Galaxy Cable T.V. by the board of mayor and aldermen. The rights, powers, duties and obligations of the city and the franchise are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned. (1989 Code, § 13-401)

¹Complete details relating to the cable television franchise agreement, and any amendments, are of record in the office of the city recorder.

ADULT ENTERTAINMENT CENTERS

SECTION

- 9-301. Definition of adult entertainment center.
- 9-302. Prohibited acts.
- 9-303. Prohibited locations.
- 9-304. Minors prohibited as patrons.
- 9-305. Minors prohibited as employees.
- 9-306. Outside advertisement restricted.
- 9-307. Hours of business.
- 9-308. Violations-misdemeanors-penalties.
- 9-309. Repeated violations authorizing closing of business.
- 9-310. Judicial review of actions under this chapter.
- 9-301. <u>Definition of adult entertainment center</u>. "Adult entertainment center" shall be defined for the purpose of this chapter as any business located with the corporate city limits of the City of Puryear that generates its primary source of income from live entertainment featuring "topless" dancing or other types of dancing or modeling by either sex where the entertainers sexually touch the patrons or exhibit themselves to the patrons in a manner intended to stimulate sexual passions and desires and exhibit the body and body parts in various degrees of nudity. (Ord. #____, Jan. 1996, as replaced by Ord. #27-98, June 1998)
- **9-302.** Prohibited acts. (1) No person while in such establishment shall expose to public view his or her genitals, pubic areas, vulva, anus, or anal cleft thereof without the covering of a least a G-string;
- (2) No person maintaining, owning, or operating such establishment shall suffer or permit any person to expose to public view his or her genitals, pubic areas, vulva, anus, or anal cleft thereof without the covering of at least a G-string;
- (3) No person shall engage in and no person maintaining, owning, or operating such an establishment shall suffer or permit any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellating, any sexual act which is prohibited by law, touching, caressing, or fondling of the breasts, buttocks, anus or genitals or the simulation thereof within such an establishment. (Ord. #___, Jan. 1996, as replaced by Ord. #27-98, June 1998)
- **9-303.** Prohibited locations. No adult entertainment center shall be operated from the front door less than 2000 feet from any school, private residence or church or any other location or where any religious body normally

worships or convenes. (Ord. #___, Jan. 1996, as replaced by Ord. #27-98, June 1998)

- **9-304.** Minors prohibited as patrons. It shall be unlawful for any adult entertainment center to allow any minors of less than eighteen (18) years of age to attend or be seen on the premises during any open hours of said business. (Ord. #___, Jan. 1996, as replaced by Ord. #27-98, June 1998)
- **9-305.** <u>Minors prohibited as employees</u>. No minors less than eighteen (18) years of age shall be allowed to work in any business defined as an adult entertainment center. (Ord. #___, Jan. 1996, as replaced by Ord. #27-98, June 1998)
- **9-306.** Outside advertisement restricted. No outside advertisement of any kind shall be permitted by an adult entertainment center that shall show or depict any of its patrons or employees in less than full dress attire. (Ord. #___, Jan. 1996, as replaced by Ord. #27-98, June 1998)
- 9-307. <u>Hours of business</u>. If such an establishment allows the use or consumption of any alcoholic beverage having an alcoholic content of five percent (5%) of weight or less, expressly including all beers, then said establishment shall not allow the consumption of any alcoholic beverage after midnight and shall, in all cases, close its doors for patrons at 1:30 A.M. (as added by Ord. #27-98, June 1998)
- **9-308.** <u>Violations-misdemeanors-penalties</u>. Any violation of any section of this chapter upon conviction shall be punished by a fine of not less than fifty dollars (\$50.00) appear at each individual violation and each occasion shall constitute a separate misdemeanor. (Ord. #___, Jan. 1996, as replaced by Ord. #27-98, June 1998)
- 9-309. Repeated violations authorizing closing of business. If any business known as an adult entertainment center shall end a period of one (1) year and receive more than five (5) violations of this code section of the municipal code of the City of Puryear or any violations in excess of this code section or any other code section of the State of Tennessee shall be the basis of authorizing the Board of Aldermen of the City of Puryear to declare said business a public nuisance and order its closing for a limited period of time or for a total closure as determined by the board of aldermen. Upon proper hearing and notice given to the adult entertainment center that shall be noticed of at least thirty (30) days prior to hearing to be determined an open hearing before the board of aldermen. (Ord. #___, Jan. 1996, as replaced by Ord. #27-98, June 1998)

9-310. <u>Judicial review of actions under this chapter</u>. The action of board of aldermen in connection with the withdrawal of the right to conduct business within the City of Puryear as defined herein may be reviewed by the statutory writ of certiorari, said writ of certiorari to be addressed to the Circuit or Chancery Court of Henry County, Tennessee. Immediately upon the ground of the writ of certiorari, the board of aldermen shall cause to be made, certified and forwarded to said court, a complete transcript of proceedings before the board.

Said provisions of this section shall be the sole and exclusive remedy and method of review of any action or order that may have been issued by the board, including the refusal or failure to grant any license or permit. (Ord. #___, Jan. 1996, as replaced by Ord. #27-98, June 1998)

CHAPTER 4

SEXUALLY ORIENTED BUSINESSES

SECTION

- 9-401. Purpose and findings.
- 9-402. Definitions.
- 9-403. Classification.
- 9-404. License required.
- 9-405. Issuance of license.
- 9-406. Fees.
- 9-407. Inspection.
- 9-408. Expiration of license.
- 9-409. Suspension.
- 9-410. Revocation.
- 9-411. Judicial review.
- 9-412. No transfer of license.
- 9-413. Location restrictions.
- 9-414. Non-conforming uses; amortization.
- 9-415. Additional regulations for adult motels.
- 9-416. Additional regulations for escort agencies.
- 9-417. Additional regulations for nude model studios.
- 9-418. Additional regulations concerning public nudity.
- 9-419. Regulations pertaining to exhibition of sexually explicit films and videos.
- 9-420. Exterior portions of sexually oriented businesses.
- 9-421. Signage.
- 9-422. Sale, use, or consumption of alcoholic beverages prohibited.
- 9-423. Persons younger than eighteen prohibited from entry; attendant required.
- 9-424. Massages or baths administered by person of opposite sex.
- 9-425. Hours of operation.
- 9-426. Exemptions.
- 9-427. Notices.
- 9-428. Injunction.

9-401. Purpose and findings. (1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented

materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials.

- Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the city commission, and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 426 U.S. 50 (1976); and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); Arcara v. Cloud Books, Inc., 478 U.S. 697, (1986); California v. LaRue, 409 U.S. 109 (1972); Iacobucci v. City of Newport, Ky, 479 U.S. 92 (1986); United States v. O 'Brien, 391 U.S. 367 (1968); DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); Key, Inc. v. Kitsap County, 793 F.2d 1053 (9th Cir. 1986); Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (5th Cir. 1995); and South Florida Free Beaches, Inc. v. City of Miami, 734 F.2d 608 (11th Cir. 1984), as well as studies conducted in other cities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the city commission finds that:
 - (a) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.
 - (b) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. See, e.g., studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.
 - (c) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. See, e.g., <u>California v. LaRue</u>, 409 U.S. 109, 111 (1972); see also Final Report of the Attorney General's Commission on Pornography (1986) at 377.
 - (d) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.

- (e) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses. See, e.g., <u>Arcara v. Cloud Books, Inc.</u>, 478 U.S. 697, 698 (1986); see also Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
- (f) At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, Human Immunodeficiency Virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections. See, e.g., Study of Fort Meyers, Florida.
- (g) For the period 1985 through 1995, the total number of reported cases of AIDS in the United States caused by the Human Immunodeficiency Virus (HIV) was five hundred twenty-three thousand fifty-six (523,056). See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (h) As of February, 1999, there have been eight thousand two hundred three (8,203) reported cases of AIDS in the State of Tennessee.
- (i) Since 1981 and to the present, there has been an increasing cumulative number of persons testing positive for HIV antibody test in [state of] Tennessee.
- (j) The total number of cases of early (less than one (1) year) syphilis in the United States reported during the ten (10) year period 1985-1995 was three hundred sixty-seven thousand seven hundred ninety-six (367,796). See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (k) The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of one million two hundred fifty thousand five hundred eighty-one (1,250,581) cases reported during the period 1993-1995. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (l) The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (m) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g., Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (n) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the

failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.

- (o) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view "adult" oriented films. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- (p) Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity. See, e.g., Barnes v. Glen Theatre, 501 U.S. 560, 583 (1991).
- (q) Nude dancing in adult establishments increases the likelihood of drug-dealing and drug use. See, e.g., Kev, Inc. v. Kitsap County, 793 F.2d 1053, 1056 (9th Cir. 1986).
- (r) The findings noted in subsections numbered (a) through (q) raise substantial governmental concerns.
- (s) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (t) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of the sexually oriented businesses. Further, such licensing procedure will place a heretofore non-existent incentive on operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
- (u) Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult establishments.
- (v) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and criminal activity.
- (w) It is desirable, in the prevention of the spread of communicable diseases, to obtain a limited amount of information regarding certain employees who may engage in the conduct this chapter is designed to prevent, or who are likely to be witnesses to such activity.

- (x) The fact that an applicant for a sexually oriented business license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this chapter.
- (y) The barring of such individuals from operation or employment in sexually oriented businesses for a period of five (5) years for a previous felony conviction serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.
- (z) The general welfare, health, morals, and safety of the citizens of this city will be promoted by the enactment of this chapter. (as added by Ord. #49-06, March 2006)
- **9-402.** <u>Definitions</u>. (1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
- (2) "Adult bookstore" or "adult video store" means a commercial establishment that, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:
 - (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or
 - (b) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store so long as one (1) of its principal business purposes is the offering for sale or rental for consideration of the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

- (3) "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:
 - (a) Persons who appear in a state of nudity or semi-nudity; or
 - (b) Live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

- (c) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- (d) Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
- (4) "Adult motel" means a hotel, motel or similar commercial establishment that:
 - (a) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way that advertises the availability of this adult type of photographic reproductions; or
 - (b) Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or
 - (c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty-four (24) hours.
- (5) "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (6) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."
- (7) "Director" means the city manager or such persons as he may designate to perform the duties of the director under this chapter.
- (8) "Employee" means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.
- (9) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

- (10) "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one (1) of its primary business purposes for a fee, tip, or other consideration.
 - (11) "Establishment" means and includes any of the following:
 - (a) The opening or commencement of any sexually oriented business as a new business;
 - (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - (c) The additions of any sexually oriented business to any other existing sexually oriented business; or
 - (d) The relocation of any sexually oriented business; or
 - (e) A sexually oriented business or premises on which the sexually oriented business is located.
- (12) "Licensed day-care center" means a facility licensed by the State of Tennessee, whether situated within the city or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.
- (13) "Licensee" means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.
- (14) "Nude model studio" means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.
- (15) "Nudity" or a "state of nudity" means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.
- (16) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- (17) "Premises" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to § 9-404 of this chapter.
- (18) "Semi-nude" or "semi-nudity" means the appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female

breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

- (19) "Sexual encounter center" means a business or commercial enterprise that, as one (1) of its principal business purposes, offers for any form of consideration:
 - (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - (b) Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nudity.
- (20) "Sexually oriented business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.
 - (21) "Specified anatomical areas" means:
 - (a) The human male genitals in a discernibly turgid state, even if fully and opaquely covered;
 - (b) Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.
 - (22) "Specified criminal activity" means any of the following offenses:
 - (a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries.
 - (b) For which:
 - (i) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense:
 - (ii) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;
 - (iii) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

- (c) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.
- (23) "Specified sexual activities" means and includes any of the following:
 - (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
 - (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - (c) Masturbation, actual or simulated; or
 - (d) Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.
- (24) "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%) as the floor areas exist on May 1, 1999.
- (25) "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:
 - (a) The sale, lease, or sublease of the business;
 - (b) The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or
 - (c) The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (as added by Ord. #49-06, March 2006)
- **9-403.** <u>Classification</u>. Sexually oriented businesses are classified as follows:
 - (1) Adult arcades;
 - (2) Adult bookstores or adult video stores:
 - (3) Adult cabarets;
 - (4) Adult motels:
 - (5) Adult motion picture theaters;
 - (6) Adult theaters;
 - (7) Escort agencies;
 - (8) Nude model studios; and
 - (9) Sexual encounter centers. (as added by Ord. #49-06, March 2006)

9-404. License required. (1) It shall be unlawful:

(a) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the director pursuant to this chapter;

- (b) For any person who operates a sexually oriented business to employ a person to work and/or perform services on the premises of the sexually oriented business if such employee is not in possession of a valid sexually oriented business employee license issued to such employee by the director pursuant to this chapter;
- (c) For any person to obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person by the director pursuant to this chapter.
- (d) It shall be a defense to subsections (b) and (c) of this section if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment, or the premises.

Violation of any provision within this subsection shall constitute a misdemeanor.

- (2) An application for a sexually oriented business license must be made on a form provided by the city. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6"). Prior to issuance of a license, the premises must be inspected by the health department, fire department, building department, and zoning department.
- (3) An application for a sexually oriented business employee license must be made on a form provided by the city.
- (4) All applicants for a license must be qualified according to the provisions of this chapter. The application may request, and the applicant shall provide, such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established under this chapter. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.
- (5) If a person who wishes to own or operate a sexually oriented business is an individual, he must sign the application for a business license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a business license as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a business license as applicant.
- (6) Applications for a business license, whether original or renewal, must be made to the director by the intended operator of the enterprise. Applications must be submitted to the office of the director or the director's

designee during regular working hours. Application forms shall be supplied by the director. The following information shall be provided on the application form:

- (a) The name, street address (and mailing address if different) of the applicant(s);
 - (b) A recent photograph of the applicant(s);
- (c) The applicant's driver's license number, Social Security number, and/or his/her state or federally issued tax identification number:
- (d) The name under which the establishment is to be operated and a general description of the services to be provided:
 - (i) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state:
 - (A) The sexually oriented business's fictitious name; and
 - (B) Submit the required registration documents.
- (e) Whether the applicant, or a person residing with the applicant, has been convicted, or is awaiting trial on pending charges of a "specified criminal activity" as defined in § 9-402(22), and, if so, the "specified criminal activity" involved, the date, place, and jurisdiction of each;
- (f) Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under a sexually oriented business ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation:
- (g) Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses;
- (h) The single classification of license, as found in § 9-403, for which the applicant is filing;
 - (i) The telephone number of the establishment;

- (j) The address and legal description of the tract of land on which the establishment is to be located;
- (k) If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the business license is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the business license is sought;
- (l) If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the business license). If the expected startup date is to be more than ten (10) days following the date of issuance of the business license, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same;
- (m) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in § 9-419 hereunder.
- (7) Each application for a business license shall be accompanied by the following:
 - (a) Payment of the application fee in full;
 - (b) If the establishment is a State of Tennessee corporation, a certified copy of the articles of incorporation, together with all amendments thereto;
 - (c) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;
 - (d) If the establishment is a limited partnership formed under the laws of the State of Tennessee, a certified copy of the certificate of limited partnership, together with all amendments thereto;
 - (e) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto;
 - (f) Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;
 - (g) If the person(s) identified as the fee owner(s) of the tract of land in subsection (f) is not also the owner of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the sexually

oriented business to have or obtain the use and possession of the tract or portion thereof that is to be used for the sexually oriented business;

- (h) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within one thousand feet (1,000') of the property to be certified; the property lines of any established religious institution/synagogue, school, public park or recreation area, or family-oriented entertainment business within one thousand five hundred feet (1,500') of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted;
- (i) Any of items (b) through (h) above shall not be required for a renewal application if the applicant states that the documents previously furnished to the director with the original application or previous renewals thereof remain correct and current.
- (8) Applications for an employee license to work and/or perform services in a sexually oriented business, whether original or renewal, must be made to the director by the person to whom the employee license shall issue. Each application for an employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the director. Applications must be submitted to the office of the director or the director's designee during regular working hours. Each applicant shall be required to give the following information on the application form:
 - (a) The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases:
 - (b) Age, and date and place of birth;
 - (c) Height, weight, hair color, and eye color;
 - (d) Present residence address and telephone number;
 - (e) Present business address and telephone number;
 - (f) Date, issuing state, and number of photo driver's license, or other state issued identification card information;
 - (g) Social Security number; and
 - (h) Proof that the individual is at least eighteen (18) years old.
 - (9) Attached to the application form for a license shall be the following:
 - (a) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police or sheriff's department. Any fees for the photographs and fingerprints shall be paid by the applicant.
 - (b) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant, in this or any other city, county, state, or country, has ever had any license, permit, or

authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name(s) under which the license was sought and/or issued, the name(s) of the issuing or denying jurisdiction, and describe in full the reason(s) for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

- (c) A statement whether the applicant has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined in § 9-402(22) and, if so, the "specified criminal activity" involved, the date, place and jurisdiction of each.
- (10) Every application for a license shall contain a statement under oath that:
 - (a) The applicant has personal knowledge of the information contained in the application, and that the information contained therein and furnished therewith is true and correct; and
 - (b) The applicant has read the provisions of this section.
- (11) A separate application and business license shall be required for each sexually oriented business classification as set forth in § 9-403.
- (12) The fact that a person possesses other types of state or city permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business or employee license. (as added by Ord. #49-06, March 2006)
- 9-405. <u>Issuance of license</u>. (1) Upon the filing of an application for a sexually oriented business employee license, the director shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for investigation to be made on the information contained in the application. The application process shall be completed within thirty (30) days from the date of the completed application. After the investigation, the director shall issue an employee license, unless it is determined by a preponderance of the evidence that one (1) or more of the following findings is true:
 - (a) The applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
 - (b) The applicant is under the age of eighteen (18) years;
 - (c) The applicant has been convicted of a "specified criminal activity" as defined in § 9-402(22) of this chapter;
 - (d) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule, or regulation, or prohibited by a particular provision of this chapter; or

- (e) The applicant has had a sexually oriented business employee license revoked by the city within two (2) years of the date of the current application.
- If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as forth in subsection (9) of this section.
- (2) A license issued pursuant to subsection (1) of this section, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. The employee shall keep the license on his or her person at all times while engaged in employment or performing services on the sexually oriented business premises so that said license may be available for inspection upon lawful request.
- (3) A license issued pursuant to subsection (1) of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the director that the applicant has not been convicted of any "specified criminal activity" as defined in this chapter or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in § 9-406. Non-renewal of a license shall be subject to appeal as set forth in subsection (9) of this section.
- (4) If application is made for a sexually oriented business license, the director shall approve or deny issuance of the license within forty-five (45) days of receipt of the completed application. The director shall issue a license to an applicant unless it is determined by a preponderance of the evidence that one (1) or more of the following findings is true:
 - (a) An applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
 - (b) An applicant is under the age of eighteen (18) years;
 - (c) An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding twelve (12) months, or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months;
 - (d) An applicant or a person with whom the applicant is residing is overdue in payment to the city in taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business:
 - (e) An applicant or a person with whom the applicant is residing has been convicted of a "specified criminal activity" as defined in § 9-402(22);

- (f) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building department as being in compliance with applicable laws and ordinances;
- (g) The license fee required under this chapter has not been paid;
- (h) An applicant of the proposed establishment is in violation of or is not in compliance with one (1) or more of the provisions of this chapter.
- (5) A license issued pursuant to subsection (4) of this section, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the § 9-403 classification for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
- (6) The health department, fire department, building department and zoning department shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the completed application by the director. The certification shall be promptly presented to the director.
- (7) A sexually oriented business license shall issue for only one (1) classification, as set forth in § 9-403.
- (8) In the event that the director determines that an applicant is not eligible for a sexually oriented business license, the applicant shall be given notice in writing of the reasons for the denial within forty-five (45) days of the receipt of the completed application by the director, provided that the applicant may request, in writing at any time before the notice is issued, that such period be extended for an additional period of not more than ten (10) days in order to make modifications necessary to comply with this chapter.
- (9) An applicant may appeal the decision of the director regarding a denial to the city commission by filing a written notice of appeal with the city secretary within fifteen (15) days after service of notice upon the applicant of the director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The director may, within fifteen (15) days of service upon him of the applicant's memorandum, submit a memorandum in response to the memorandum filed by the applicant on appeal to the city commission. After reviewing such memoranda, as well as the director's written decision, if any, and exhibits submitted to the director, the city commission shall vote either to uphold or overrule the director's decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the city secretary receives the notice of appeal. However, all parties shall be required to comply with the director's decision during the pendency of the appeal. Judicial review of a denial

by the director and city commission may be made pursuant to § 9-411 of this chapter.

- (10) A license issued pursuant to subsection (4) of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the director that the applicant has not been convicted of any "specified criminal activity" as defined in this chapter, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within forty-five (45) days of the completed application. The renewal of a license shall be subject to the fee as set forth in § 9-406. (as added by Ord. #49-06, March 2006)
- **9-406.** Fees. The annual fee for a sexually oriented business license, whether new or renewal, is five hundred dollars (\$500.00). The annual fee for a sexually oriented business employee license, whether new or renewal, is fifty dollars (\$50.00). These fees are to be used to pay for the cost of the administration and enforcement of this chapter. (as added by Ord. #49-06, March 2006)
- 9-407. <u>Inspection</u>. (1) An applicant or licensee shall permit representatives of the police department, sheriff's department, health department, fire department, building department, or other city or state departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is open for business.
- (2) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he/she refuses to promptly permit such lawful inspection of the premises. (as added by Ord. #49-06, March 2006)
- **9-408.** Expiration of license. (1) Each license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in § 9-404. Application for renewal should be made at least forty-five (45) days before the expiration date. When application is made less than forty-five (45) days before the expiration date, the expiration of the license will not be affected.
- (2) When the director denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. (as added by Ord. #49-06, March 2006)
- **9-409.** Suspension. The director shall suspend a license for a period not to exceed thirty (30) days if he determines that licensee or an employee of licensee has:
 - (1) Violated or is not in compliance with any section of this chapter;

- (2) Operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
- (3) Refused to allow prompt inspection of the sexually oriented business premises as authorized by this chapter;
- (4) With knowledge, permitted gambling by any person on the sexually oriented business premises. (as added by Ord. #49-06, March 2006)
- **9-410.** Revocation. (1) The director shall revoke a license if a cause of suspension in \S 9-409 occurs and the license has been suspended within the proceeding twelve (12) months.
 - (2) The director shall revoke a license if he determines that:
 - (a) A licensee gave false or misleading information in the material submitted during the application process;
 - (b) A licensee, or a person with whom the licensee is residing, was convicted of a "specified criminal activity" on a charge that was pending prior to the issuance of the license;
 - (c) A licensee has, with knowledge, permitted the possession, use, or sale of controlled substances on the premises;
 - (d) A licensee has, with knowledge, permitted the sale, use, or consumption of alcoholic beverages on the premises;
 - (e) A licensee has, with knowledge, permitted prostitution on the premises;
 - (f) A licensee has, with knowledge, operated the sexually oriented business during a period of time when the licensee's license was suspended;
 - (g) A licensee has, with knowledge, permitted any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;
 - (h) A licensee is delinquent in payment to the city or state for any taxes or fees;
 - (i) A licensee has, with knowledge, permitted a person under eighteen (18) years of age to enter the establishment; or
 - (j) A licensee has attempted to sell his business license, or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee of the establishment;
 - (k) A licensee has, with knowledge, permitted a person or persons to engage in specified sexual activities on the premises of the sexually oriented business.
- (3) When the director revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective. (as added by Ord. #49-06, March 2006)

- **9-411.** <u>Judicial review</u>. After denial of an initial or renewal application by the director and city commission, or suspension or revocation of a license by the director, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court. (as added by Ord. #49-06, March 2006)
- **9-412.** No transfer of license. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (as added by Ord. #49-06, March 2006)
- **9-413.** <u>Location restrictions</u>. Sexually oriented businesses shall be permitted in any commercial district provided that:
 - (1) The sexually oriented business may not be operated within:
 - (a) One thousand feet (1,000') of a church, synagogue or regular place of religious worship;
 - (b) One thousand feet (1,000') of a public or private elementary or secondary school;
 - (c) One thousand feet (1,000') of a boundary of any residential district;
 - (d) One thousand feet (1,000') of a public park;
 - (e) One thousand feet (1,000') of a licensed day-care center;
 - (f) One thousand feet (1,000') of an entertainment business that is oriented primarily towards children or family entertainment; or
 - (g) One thousand feet (1,000') of another sexually oriented business.
- (2) A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business that is classified in accordance with § 9-403.
- (3) For the purpose of this chapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot, or licensed day-care center, or child or family entertainment business.
- (4) For purposes of subsection (3) of this section, the distance between any two (2) sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located. (as added by Ord. #49-06, March 2006)

- **9-414.** Non-conforming uses; amortization. (1) Any business lawfully operating on the effective date of this chapter that is in violation of the locational or structural configuration requirements of this chapter shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within one thousand feet (1,000') of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operated at a particular location is the conforming use and the later-established business(es) is non-conforming.
- (2) A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care center, public park, residential district, or child or family entertainment business within one thousand five hundred feet (1,500') of the sexually oriented business. This provision applies only to the renewal of a valid business license, and does not apply when an application for a business license is submitted after a business license has expired or has been revoked. (as added by Ord. #49-06, March 2006)
- **9-415.** Additional regulations for adult motels. (1) Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this chapter.
- (2) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.
- (3) For purposes of subsection (2) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.
- (4) Violation of subsection (2) of this section shall constitute a misdemeanor. (as added by Ord. #49-06, March 2006)
- **9-416.** Additional regulations for escort agencies. (1) An escort agency shall not employ any person under the age of eighteen (18) years.
- (2) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

- (3) Violation of this section shall constitute a misdemeanor. (as added by Ord. #49-06, March 2006)
- **9-417.** Additional regulations for nude model studios. (1) A nude model studio shall not employ any person under the age of eighteen (18) years.
- (2) A person under the age of eighteen (18) years commits a misdemeanor if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to the public view or visible by any other person.
- (3) A person commits a misdemeanor if the person appears in a state of nudity, or with knowledge, allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.
- (4) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public. (as added by Ord. #49-06, March 2006)
- 9-418. Additional regulations concerning public nudity. The language contained in this subsection presumes the absence of a state statute or local ordinance that prohibits public nudity. If a statute or ordinance prohibiting public nudity is in existence prior to the adoption of a sexually oriented business ordinance, or if a statute or ordinance prohibiting public nudity is enacted simultaneously with a sexually oriented business ordinance, this section must be modified to reflect such prohibition of nudity. The following language is a sample of the type of language that may be adopted when a general prohibition of public nudity is in effect:
- (1) It shall be a misdemeanor for a person who, with knowledge and intent, appears in person in a state of nudity in a sexually oriented business, or depicts specified sexual activities in a sexually oriented business.
- (2) It shall be a misdemeanor for a person who, with knowledge and intent, appears in person in a semi-nude condition on the sexually oriented business premises, unless the person is an employee who, while semi-nude, is at least ten feet (10') from any patron or customer and on a stage at least two feet (2') from the floor.
- (3) It shall be a misdemeanor for an employee, while semi-nude on the sexually oriented business premises, to solicit any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude.
- (4) It shall be a misdemeanor for an employee, while semi-nude, to touch a patron or the clothing of a patron, or for a patron to touch a semi-nude employee or the clothing of a semi-nude employee, while said employee is on the premises of the sexually oriented business. (as added by Ord. #49-06, March 2006)

- 9-419. Regulations pertaining to exhibition of sexually explicit films and videos. (1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction that depicts specified sexual activities or specified anatomical areas shall comply with the following requirements:
 - Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the plaque at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since said diagram was prepared.
 - (b) The application shall be sworn to be true and correct by the applicant.
 - (c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the director or his designee.
 - (d) It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
 - (e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

- (f) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection (e) of this section remains unobstructed at all times. No doors, walls, partitions, curtains, merchandise, display racks, or other object(s) shall obstruct from view of the manager's station any portion of the premises to which patrons have access. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as designated in the application filed pursuant to subsection (a) of this section.
- (g) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candle as measured at the floor level.
- (h) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (i) No viewing room or booth may be occupied by more than one (1) person at any time.
- (j) No opening of any kind shall exist between viewing rooms or booths.
- (k) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no more than one (1) person at a time occupies a viewing booth or room, and to ensure that no person attempts to make an opening of any kind between the viewing booths or rooms.
- (l) The operator of the sexually oriented business shall, each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.
- (m) The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- (n) The operator of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight inches (48") of the floor.
- (2) A person having a duty under subsections (a) through (n) of this section commits a misdemeanor if he/she, with knowledge, fails to fulfill that duty. (as added by Ord. #49-06, March 2006)

- **9-420.** Exterior portions of sexually oriented businesses. (1) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
- (2) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.
- (3) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
 - (a) The establishment is a part of a commercial multi-unit center; and
 - (b) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.
- (4) Nothing in this section shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.
- (5) A violation of any provision of this section shall constitute a misdemeanor. (as added by Ord. #49-06, March 2006)
- **9-421.** <u>Signage</u>. (1) Notwithstanding any other city ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.
- (2) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
 - (a) Not contain any flashing lights;
 - (b) Be a flat plane, rectangular in shape;
 - (c) Not exceed seventy-five (75) square feet in area; and
 - (d) Not exceed ten feet (10') in height or ten feet (10') in length.
- (3) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.
- (4) Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

- (5) Secondary signs shall have only one (1) display surface. Such display surface shall:
 - (a) Be a flat plane, rectangular in shape;
 - (b) Not exceed twenty (20) square feet in area;
 - (c) Not exceed five feet (5') in height and four feet (4') in width; and
 - (d) Be affixed or attached to any wall or door of the enterprise.
- (6) The provisions of item (a) of subsection (2) and subsections (3) and (4) shall also apply to secondary signs.
- (7) Violation of any provision of this section shall constitute a misdemeanor. (as added by Ord. #49-06, March 2006)
- 9-422. Sale, use, or consumption of alcoholic beverages prohibited. (1) The sale, use, or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.
- (2) Any violation of this section shall constitute a misdemeanor. (as added by Ord. #49-06, March 2006)
- 9-423. Persons younger than eighteen prohibited from entry; attendant required. (1) It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open for business.
- (2) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:
 - (a) A valid operator's, commercial operator's, or chauffeur's driver's license; or
 - (b) A valid personal identification certificate issued by the State of Tennessee reflecting that such person is eighteen (18) years of age or older.
- (3) Violation of this section shall constitute a misdemeanor. (as added by Ord. #49-06, March 2006)
- 9-424. <u>Massages or baths administered by person of opposite sex</u>. It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex. Violation of this section shall constitute a misdemeanor. (as added by Ord. #49-06, March 2006)

- **9-425.** <u>Hours of operation</u>. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 A.M. and 8:00 A.M. on weekdays and Saturdays, and 1:00 A.M. and 12:00 P.M. on Sundays. (as added by Ord. #49-06, March 2006)
- **9-426.** Exemptions. It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated:
- (1) By a proprietary school, licensed by the State of Tennessee, a college, junior college, or university supported entirely or partly by taxation;
- (2) By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation. (as added by Ord. #49-06, March 2006)
- 9-427. <u>Notices</u>. (1) Any notice required or permitted to be given by the director or any other city office, division, department or other agency under this chapter to any applicant, operator or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the director. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the director or his designee shall cause it to be posted at the principal entrance to the establishment.
- (2) Any notice required or permitted to be given to the director by any person under this chapter shall not be deemed given until and unless it is received in the office of the director.
- (3) It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the director in writing of any change of residence or mailing address. (as added by Ord. #49-06, March 2006)
- **9-428.** <u>Injunction</u>. A person who operates or causes to be operated a sexually oriented business without a valid business license, or in violation of § 9-413 of this chapter, is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation. (as added by Ord. #49-06, March 2006)

TITLE 10

ANIMAL CONTROL

CHAPTER

- 1. IN GENERAL.
- 2. DOGS.
- 3. PIT BULLS AND OTHER VICIOUS DOGS.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Cruel treatment prohibited.
- 10-107. Seizure and disposition of animals.
- **10-101.** 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. (1989 Code, § 3-101)

- **10-102.** <u>Keeping near a residence or business restricted</u>. 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 (1,000) feet of any residence, place of business, or public street, as measured in a straight line. (1989 Code, § 3-102)
- **10-103.** Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1989 Code, § 3-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1989 Code, § 3-104)

- 10-105. <u>Keeping in such manner as to become a nuisance</u> 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. (1989 Code, § 3-105)
- 10-106. <u>Cruel treatment prohibited</u>. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1989 Code, § 3-106)
- 10-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer 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, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

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. (1989 Code, § 3-107)

CHAPTER 2

DOGS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Destruction of vicious or infected dogs running at large.
- 10-201. <u>Rabies vaccination and registration required</u>. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (<u>Tennessee Code Annotated</u>, §§ 68-8-101 through 68-8-114) or other applicable law. (1989 Code, § 3-201)
- 10-202. <u>Dogs to wear tags</u>. 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. (1989 Code, § 3-202)
- 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. (1989 Code, § 3-203)

- **10-204.** <u>Vicious dogs to be securely restrained</u>. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1989 Code, § 3-204)
- **10-205.** Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1989 Code, § 3-205)

¹State law reference

Tennessee Code Annotated, §§ 68-8-108 and 68-8-109.

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. (1989 Code, § 3-206)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or any other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If said dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If said dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within five (5) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar. (1989 Code, § 3-207)

10-208. <u>Destruction of vicious or infected dogs running at large</u>. 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. (1989 Code, § 3-208)

¹State law reference

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

CHAPTER 3

PIT BULLS AND OTHER VICIOUS DOGS

SECTION

- 10-301. Pit bull dogs; definitions.
- 10-302. Pit bull restrictions.
- 10-303. Standards and requirements for pit bulls.
- 10-304. Other vicious dogs; definitions.
- 10-305. Vicious dogs prohibited.
- 10-306. Procedure for determining that a dog is vicious.
- 10-307. Impoundment of vicious dogs.
- 10-308. Standards and requirements for keeping vicious dogs.
- 10-309. Guard dogs.
- 10-310. Penalties.
- 10-301. <u>Pit bull dogs; definitions</u>. The words, terms, and phrases, and their derivations as used in this chapter, except where the context clearly indicates otherwise, shall have the following meanings:
- (1) "Confined" means to be securely kept indoors, within an automobile or other vehicle, or kept in a securely enclosed and locked pen or structure upon the premises of the owner or keeper of such dog.
- (2) "Impoundment" means the taking or picking up and confining of an animal by any police officer, animal control officer or any other public officer under the provisions of this chapter.
- (3) "Muzzle" means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.
- (4) "Owner" means any person, partnership, corporation, or other legal entity owning, harboring, or possessing a pit bull or any other dog regardless of breed determined to be vicious, or in the case of a person under the age of eighteen (18), that person's parent or legal guardian. Such dog shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days. This definition shall not apply to any veterinary clinic or boarding kennel.
- (5) "Physical restraint" means a muzzle and a leash not to exceed four feet (4') in length.
 - (6) "Pit bull" means and includes any of the following dogs:
 - (a) The bull terrier breed of dog;
 - (b) The Staffordshire bull terrier breed of dog;
 - (c) The American pit bull terrier breed of dog;
 - (d) The American Staffordshire breed of dog;
 - (e) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bull, pit bull dogs, or pit bull terriers; and

- (f) Any dog which has the appearance and characteristics of being predominantly of the breeds of dogs known as bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, and any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.
- (7) "Predominately" means knowledge through identification procedures or otherwise, or admission by owner, keeper, or harborer that a dog is more than fifty percent (50%) pit bull. Predominately also means that the dog exhibits the physical characteristics of a pit bull more than that of any other breed of dog.
- (8) "Sanitary condition" means a condition of good order and cleanliness to minimize the possibility of disease transmission.
- (9) "Securely enclosed and locked pen or structure" means a fenced-in area that shall be a minimum of five feet (5') wide, ten feet (10') long, and five feet (5') in height above grade, and with a horizontal top covering said area, all to be at least nine (9) gauge chain link fencing with necessary steel supporting posts. The floor shall be at least three inches (3") of poured concrete with the bottom edge of the fencing embedded in the concrete or extending at least two feet (2') below grade. The gate must be of the same materials as the fencing, fit securely, and be kept securely locked. The owner shall post the enclosure with a clearly visible warning sign, including a warning symbol to inform children that there is a dangerous dog on the property. The enclosure shall contain and provide shelter and protection from the elements, adequate exercise room, be adequately lighted and ventilated, and kept in a sanitary condition.
- (10) "Under restraint" means that the dog is secured by a leash, led under the control of a person physically capable of restraining the dog and obedient to that person's commands. A dog kept within a securely enclosed and locked pen or structure shall also be considered to be under restraint. (as added by Ord. #57-07, Sept. 2007)
- 10-302. <u>Pit bull restrictions</u>. It shall be unlawful to keep, harbor, own, or in any way possess a pit bull dog within the corporate limits of Puryear. Provided, however, that persons owning such dogs at the time this chapter is adopted shall be allowed to keep them, provided that they comply with all of the provisions of this chapter, including § 10-303, within thirty (30) days of the effective date of the ordinance comprising this chapter. (as added by Ord. #57-07, Sept. 2007)
- 10-303. <u>Standards and requirements for pit bulls</u>. (1) The following standards and requirements shall apply to pit bull dogs located within the corporate limits of Puryear:
 - (a) Registration. Each owner, keeper, harborer, or possessor of a pit bull dog shall register such dog with the Puryear City Recorder.

- (b) Physical restraint. No person having charge, custody, control, or possession of a pit bull shall permit the dog to go outside its kennel, pen, or other securely enclosed and locked pen or structure unless such dog is under restraint. No person shall permit a pit bull dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless a person of suitable age and discretion is in physical control of the leash. Such dogs shall not be leashed to inanimate objects such as trees, posts, buildings, or structures.
- (c) Muzzle. It is unlawful for any owner or keeper of a pit bull to allow the dog to be outside its kennel, pen, or other securely enclosed and locked pen or structure unless it is necessary for the dog to receive veterinary care. In such cases, the dog must wear a properly fitted muzzle sufficient to prevent the dog from biting persons or other animals. Such muzzle shall not interfere with the dog's breathing or vision.
- (d) Outdoor confinement. Except when leashed and muzzled as provided in this chapter, all pit bull dogs shall be securely confined as defined in this chapter. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure. All structures erected to house pit bull dogs must comply with zoning and building ordinances and regulations of the City of Puryear.
- (e) Indoor confinement. No pit bull dog shall be kept on a porch, patio, or in any part of a dwelling or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may be kept in a dwelling or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.
- (f) Signs. All owners, keepers, harborers, or possessors of pit bull dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog" and including a warning symbol to inform children that there is a dangerous dog on the property.
- (g) Insurance. All owners, keepers, harborers, or possessors of pit bull dogs shall provide proof to the city recorder of public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from owning, possessing, keeping, or maintaining such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' advance written notice is first given to the Puryear City Recorder.
- (h) Identification photographs. All owners, keepers, possessors, or harborers of pit bull dogs shall provide to the city recorder two (2) color

photographs of the dog clearly showing the color and approximate size of the animal.

- (i) Reporting requirements. All owners, keepers, possessors, or harborers of pit bull dogs shall within ten (10) days of the incident report the following information in writing to the Puryear City Recorder as required hereinafter:
 - (i) The removal from the city or death of a pit bull dog.
 - (ii) The birth of offspring of a pit bull dog.
 - (iii) The new address of a pit bull dog owner, keeper, possessor, or harborer should such owner, keeper, possessor, or harborer move his residence within the corporate limits of the City of Puryear.
- (2) <u>Sale or transfer of ownership prohibited</u>. No person shall sell, barter, or in any other way transfer possession of a pit bull dog to any person within the City of Puryear unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of a pit bull dog may sell or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside within the City of Puryear.
- (3) <u>Animals born of registered dogs</u>. All offspring born of pit bull dogs within the City of Puryear shall be removed from the City of Puryear within six (6) weeks of the birth of such animal.
- (4) Rebuttable presumptions. There shall be a rebuttable presumption that any dog registered with the City of Puryear as a pit bull dog or any of those breeds defined by § 10-301(1) of this chapter is in fact a dog subject to the requirements of this chapter.
- (5) <u>Impoundment</u>. Any pit bull dog, not kept in compliance with the provisions of this chapter, may be taken into custody by the appropriate authorities of the City of Puryear or agents acting on its behalf, and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with the impounding of the dog, in addition to any punitive fines to be paid.
- (6) <u>Court proceedings against the owner</u>. If any pit bull dog is impounded, the City of Puryear may institute proceedings in municipal court charging the owner with violation of this chapter. Nothing in this section, however, shall be construed as preventing the city or any citizen from instituting a proceeding for violation of this chapter where there has been no impoundment.
- (7) <u>Court findings</u>. If a complaint has been filed in municipal court against the owner of a dog for violation of this chapter, the dog shall not be released from impoundment or disposed of except on order of the court and payment of all charges and costs incurred under this chapter, including penalties for violating this chapter. The court may, at its discretion, order the dog to be destroyed in a humane manner. (as added by Ord. #57-07, Sept. 2007)

- 10-304. Other vicious dogs; definitions. The words, terms, and phrases, and their derivations as used in this chapter, except where the context clearly indicates otherwise, shall have the following meanings:
- (1) "Confined" means to be securely kept indoors, within an automobile or other vehicle, or kept in a securely enclosed and locked pen or structure upon the premises of the owner or keeper of such dog.
- (2) "Muzzle" means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.
- (3) "Owner" means any person, partnership, corporation, or other legal entity owning, harboring, or possessing a pit bull or any other dog regardless of breed determined to be vicious, or in the case of a person under the age of eighteen (18), that person's parent or legal guardian. Such dog shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days. This definition shall not apply to any veterinary clinic or boarding kennel.
- (4) "Physical restraint" means a muzzle and a leash not to exceed four feet (4') in length.
- (5) "Sanitary condition" means a condition of good order and cleanliness to minimize the possibility of disease transmission.
- (6) "Securely enclosed and locked pen or structure" means a fenced-in area that shall be a minimum of five feet (5') wide, ten feet (10') long, and five feet (5') in height above grade, and with a horizontal top covering said area, all to be at least nine (9) gauge chain link fencing with necessary steel supporting posts. The floor shall be at least three inches (3") of poured concrete with the bottom edge of the fencing embedded in the concrete or extending at least two feet (2') below grade. The gate must be of the same materials as the fencing, fit securely, and be kept securely locked. The owner shall post the enclosure with a clearly visible warning sign, including a warning symbol to inform children that there is a dangerous dog on the property. The enclosure shall contain and provide shelter and protection from the elements, adequate exercise room, be adequately lighted and ventilated, and kept in a sanitary condition.
- (7) "Under restraint" means that the dog is secured by a leash, led under the control of a person physically capable of restraining the dog and obedient to that person's commands. A dog kept within a securely enclosed and locked pen or structure shall also be considered to be under restraint.
 - (8) "Vicious dog" means a dog of any breed other than a pit bull which:
 - (a) Approaches any person in an aggressive, menacing or terrorizing manner or in an apparent attitude of attack if such person is upon any public ways, including streets and sidewalks, or any public or private property; or
 - (b) Has a known propensity, tendency, or disposition to attack, inflict injury to or to otherwise endanger the safety of persons or domestic animals; or

- (c) Without provocation, bites or inflicts injury or otherwise attacks or endangers the safety of any person or domestic animal; or
- (d) Is trained for dog fighting or which is owned or kept primarily or in part for the purpose of dog fighting. (as added by Ord. #57-07, Sept. 2007)
- **10-305.** <u>Vicious dogs prohibited</u>. It shall be unlawful for any person to own, keep, harbor, or possess a vicious dog within the corporate limits of the City of Puryear unless such dog is confined in compliance with this chapter. (as added by Ord. #57-07, Sept. 2007)
- 10-306. Procedure for determining that a dog is vicious. (1) Upon his own complaint alleging a dog to be vicious, or upon the receipt of such complaint signed by one (1) or more residents of Puryear, the Puryear Police Chief or his designee shall hold a hearing within five (5) days of serving notice to the dog owner. The purpose of the hearing shall be to determine whether such dog is, in fact, vicious. The dog owner shall be notified by a certified letter of the date, time, place, and purpose of the hearing and may attend and have an opportunity to be heard.
- (2) In making the determination as to whether a dog is vicious, the police chief or his designee shall consider, but is not limited to, the following criteria:
 - (a) Provocation;
 - (b) Severity of attack or injury;
 - (c) Previous aggressive history of the dog;
 - (d) Observable behavior of the dog;
 - (e) Site and circumstances of the incident giving rise to the complaint;
 - (f) Age of the victim:
 - (g) Statements from witnesses and other interested parties;
 - (h) Reasonable enclosures already in place:
 - (i) Height and weight of the dog.
- (3) Within five (5) days of the hearing, the police chief or his designee shall determine whether to declare the dog vicious and shall within five (5) days after such determination notify the dog's owner by certified mail of the dog's designation as a vicious dog and the specific restrictions and conditions for keeping the dog. If the dog is declared vicious, its owner shall confine the dog with a securely enclosed and locked pen or structure, and whenever the dog is removed from such secure enclosure it shall be physically restrained and under restraint as defined in this chapter. The owner of the vicious dog shall notify residents of all abutting properties, including those across the street, of such findings. This notice to occupants of abutting properties shall be by certified mail, return receipt requested, and shall be at the owner's sole expense. The police chief may:

- (a) Vary the minimum requirements of a secure enclosure if the owner's residence cannot accommodate a secure enclosure as defined in this chapter; or
- (b) Permit an alternate method of enclosure provided that, in the sole discretion of the police chief, such alternate method fulfills the objectives as a secure enclosure.
- (4) No dog shall be declared vicious if the threat, injury, or damage was sustained by a person who:
 - (a) Was committing a crime or willful trespass or other tort upon the premises occupied by the owner of the dog; or
 - (b) Was teasing, tormenting, abusing, or provoking the dog; or
 - (c) Was committing or attempting to commit a crime.

No dog shall be declared vicious as the result of protecting or defending a human being, any other animal, or itself against an unjustified attack or assault. (as added by Ord. #57-07, Sept. 2007)

10-307. <u>Impoundment of vicious dogs</u>. Any vicious dog not in compliance with the provisions of this chapter may be taken into custody by the appropriate authorities of the City of Puryear or agents acting on behalf of the city and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with such impoundment in addition to any punitive fines to be paid. No dog which has been declared vicious pursuant to this chapter shall be released from impoundment unless and until the standards and requirements for keeping vicious dogs, as specified in § 10-308 of this chapter have been met. (as added by Ord. #57-07, Sept. 2007)

10-308. Standards and requirements for keeping vicious dogs.

- (1) The following standards and requirements shall apply to the keeping of vicious dogs located within the corporate limits of Puryear.
 - (a) Registration. Within ten (10) days of a dog being declared vicious pursuant to this chapter, the owner, keeper, harborer, or possessor of such dog shall register dog with the Puryear City Recorder.
 - (b) Physical restraint. No person having charge, custody, control, or possession of a vicious dog shall permit the dog to go outside its kennel, pen, or other securely enclosed and locked pen or structure unless such dog is under restraint. No person shall permit a vicious dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless a person of suitable age and discretion is in physical control of the leash. Such dogs shall not be leashed to inanimate objects such as trees, posts, buildings, or structures.
 - (c) Muzzle. It is unlawful for any owner or keeper of a vicious dog to allow the dog to be outside its kennel, pen, or other securely enclosed and locked pen or structure unless it is necessary for the dog to receive veterinary care. In such cases, the dog must wear a properly fitted

muzzle sufficient to prevent the dog from biting persons or other animals. Such muzzle shall not interfere with the dog's breathing or vision.

- (d) Outdoor confinement. Except when leashed and muzzled as provided in this chapter, all vicious dogs shall be securely confined as defined in this chapter. All structures used to confine vicious dogs must be locked with a key or combination lock when such animals are within the structure. All outdoor structures erected to house vicious dogs must comply with zoning and building ordinances and regulations of the City of Puryear and construction of such structures shall be completed within thirty (30) days of the owner's dog being declared vicious.
- (e) Indoor confinement. No vicious dog shall be kept on a porch, patio, or in any part of a dwelling or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may be kept in a dwelling or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.
- (f) Signs. All owners, keepers, harborers, or possessors of pit bull dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog" and including a warning symbol to inform children that there is a dangerous dog on the property. All such signs required by this chapter shall be installed and in place within fourteen (14) days of an owner's dog being declared vicious.
- (g) Insurance. Within fourteen (14) days of being declared vicious, all owners, keepers, harborers, or possessors of vicious dogs shall provide proof to the city recorder of public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from owning, possessing, keeping, or maintaining such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' advance written notice is first given to the Puryear City Recorder.
- (h) Identification photographs. Within fourteen (14) days of being declared vicious, all owners, keepers, possessors, or harborers of vicious dogs shall provide to the city recorder two (2) color photographs of the dog clearly showing the color and approximate size of the animal.
- (i) Reporting requirements. All owners, keepers, possessors, or harborers of pit bull dogs shall within ten (10) days of the incident report the following information in writing to the Puryear City Recorder as required hereinafter:
 - (i) The removal from the city or death of a vicious dog.
 - (ii) The birth of offspring of a vicious dog.
 - (iii) The new address of a vicious dog owner, keeper, possessor, or harborer should such owner, keeper, possessor, or

harborer move his residence within the corporate limits of the City of Puryear.

- (2) <u>Sale or transfer of ownership prohibited</u>. No person shall sell, barter, or in any other way transfer possession of a vicious dog to any person within the City of Puryear unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of a vicious dog may sell or otherwise dispose of a vicious dog or the offspring of such dog to persons who do not reside within the City of Puryear.
- (3) <u>Court proceedings against the owner</u>. If any vicious dog is impounded, the City of Puryear may institute proceedings in municipal court charging the owner with violation of this chapter. Nothing in this section, however, shall be construed as preventing the city or any citizen from instituting a proceeding for violation of this chapter where there has been no impoundment.
- (4) <u>Court findings</u>. If a complaint has been filed in municipal court against the owner of a dog for violation of this chapter, the dog shall not be released from impoundment or disposed of except on order of the court and payment of all charges and costs incurred under this chapter, including penalties for violating this chapter. The court may, upon a finding that the dog is vicious pursuant to this chapter, order the dog to be destroyed in a humane manner. (as added by Ord. #57-07, Sept. 2007)
- 10-309. <u>Guard dogs</u>. It shall be unlawful for any person to place or maintain guard dogs in any area of the City of Puryear for the protection of persons or property unless the following provisions are met:
 - (1) The guard dog shall be confined; or
- (2) The guard dog shall be under the direct and absolute control of a handler at all times when not confined; and
- (3) The owner or other persons in control of the premises upon which a guard dog is maintained shall post warning signs stating that such a dog is on the premises. At least one (1) such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from either the curb line or a distance of fifty feet (50'), whichever is lesser, and shall contain a telephone number where some person responsible for controlling the guard dog can be reached twenty-four (24) hours a day. (as added by Ord. #57-07, Sept. 2007)
- **10-310.** <u>Penalties</u>. Any person found violating the provisions of this chapter upon conviction shall be fined fifty dollars (\$50.00) and each day of violation shall be deemed a separate violation. (as added by Ord. #57-07, Sept. 2007)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

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

CHAPTER 1

ALCOHOL²

SECTION

11-101. Drinking alcoholic beverages in public, etc.

11-102. Minors in beer places.

11-101. <u>Drinking alcoholic beverages in public, etc</u>. It shall be unlawful for any person to drink, consume, or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place. (1989 Code, § 10-202)

11-102. <u>Minors in beer places</u>. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption. (1989 Code, § 10-203)

¹Municipal code references

Animals and fowls: title 10.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

Streets and sidewalks (non-traffic): title 16.

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See <u>Tennessee Code Annotated</u> § 33-8-203 (<u>Arrest for Public Intoxication</u>, cities may not pass separate legislation).

FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc.

11-201. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1989 Code, § 10-303)

OFFENSES AGAINST THE PERSON

SECTION

11-301. Assault and battery.

11-301. Assault and battery. It shall be unlawful for any person to commit an assault and battery upon another person. (1989 Code, § 10-401)

OFFENSES AGAINST THE PEACE AND QUIET

- 11-401. Disturbing the peace.
- 11-402. Anti-noise regulations.
- **11-401.** <u>Disturbing the peace</u>. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1989 Code, § 10-501)
- 11-402. <u>Anti-noise regulations</u>. 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) <u>Miscellaneous prohibited noises enumerated</u>. 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) <u>Blowing horns</u>. The sounding of any horn or other device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
 - (b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.
 - (c) <u>Yelling, shouting, etc.</u> Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

- (d) <u>Pets</u>. 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) <u>Use of vehicle</u>. 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) <u>Blowing whistles</u>. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.
- (g) <u>Exhaust discharge</u>. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (h) <u>Building operations</u>. 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.
- (i) <u>Noises near schools, hospitals, churches, etc.</u> The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.
- (j) <u>Loading and unloading operations</u>. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.
- (k) <u>Noises to attract attention</u>. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.
- (l) <u>Loudspeakers or amplifiers on vehicles</u>. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.
- (2) <u>Exceptions</u>. None of the terms or prohibitions hereof shall apply to or be enforced against:
 - (a) <u>City vehicles</u>. Any vehicle of the city while engaged upon necessary public business.
 - (b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the city, the county, or

the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1989 Code, § 10-502)

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

- 11-501. Escape from custody or confinement.
- 11-502. Impersonating a government officer or employee.
- 11-503. False emergency alarms.
- 11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1989 Code, § 10-601)
- 11-502. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1989 Code, § 10-602)
- 11-503. <u>False emergency alarms</u>. It shall be unlawful for any person to intentionally 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. (1989 Code, § 10-603)

FIREARMS, WEAPONS AND MISSILES

- 11-601. Throwing missiles.
- 11-602. Discharge of firearms.
- **11-601.** Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1989 Code, § 10-701)
- 11-602. <u>Discharge of firearms</u>. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1989 Code, § 10-702)

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

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

11-701. <u>Trespassing</u>. (1) <u>On premises open to the public</u>.

- (a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.
- (b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.
- (2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.
- (3) <u>Vacant buildings</u>. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.
- (4) <u>Lots and buildings in general</u>. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.
- (5) <u>Peddlers, etc.</u> It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.² (1989 Code, § 10-801)

Subsections (1) through (4) of this section were taken substantially from Tennessee Code Annotated, § 39-3-1201 et seq.

Provisions governing peddlers: title 9, chapter 1.

¹State law reference

²Municipal code reference

- 11-702. <u>Malicious mischief</u>. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1989 Code, § 10-802)
- 11-703. <u>Interference with traffic</u>. 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 with the free passage of pedestrian or vehicular traffic thereon. (1989 Code, § 10-803)

MISCELLANEOUS

SECTION

11-801. Abandoned refrigerators, etc.

11-801. <u>Abandoned refrigerators, etc.</u> It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, iœbox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1989 Code, § 10-901)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. MODEL ENERGY CODE.

CHAPTER 1

MODEL ENERGY CODE¹

SECTION

- 12-101. Model energy code adopted.
- 12-102. Modifications.
- 12-103. Available in recorder's office.
- 12-104. Violations and penalty.

12-101. <u>Model energy code adopted</u>. Pursuant to authority granted by <u>Tennessee Code Annotated</u>, §§ 6-54-501 through 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 <u>Model Energy Code</u>² 1992 edition, as prepared and maintained by The Council of American Building Officials, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code.

12-102. <u>Modifications</u>. Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the City of Puryear. When the "building official" is named it shall, for the purposes of the

<u>Tennessee Code Annotated</u>, § 13-19-106 requires Tennessee cities <u>either</u> to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

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.

²Copies of this code (and any amendments) may be purchased from The Council of American Building Officials, 5203 Leesburg, Pike Falls Church, Virginia 22041.

¹State law reference

energy code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

- **12-103.** Available in recorder's office. Pursuant to the requirements of the <u>Tennessee Code Annotated</u>, § 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.
- **12-104.** <u>Violations and penalty</u>. It shall be a civil offense 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 of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. JUNKYARDS.
- 3. SLUM CLEARANCE.
- 4. JUNKED VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Definitions.
- 13-102. Prohibited acts.
- 13-103. Enforcement.
- 13-104. Notice to correct violations.
- 13-105. Action in the event of noncompliance.
- 13-106. Collection of unpaid costs.
- **13-101.** <u>Definitions</u>. (1) "Grass." Any of numerous plants of the family gramines measured to be a minimum of one foot in height, measuring from the base of the plant at ground surface level.
- (2) "Weeds." Any of the various commonly or abundantly growing plants measured to be a minimum of one foot in height measuring from the base of the plant at the ground surface level.
- (3) "Dead tree." Any tree which is dead and located closer than a distance equal to or less than its own height plus ten feet from the nearest adjoining property line.
- (4) "Motor vehicle." Any automobile or any other motor vehicle manufactured for transportation which is incapable of being self-propelled upon the public streets or which does to meet the requirements for operation on the public streets, including current licenses and registration; also, if the vehicle is not functional within thirty (30) days of notice provided hereinbelow and registered within thirty (30) days of the notice provided hereinbelow, it will be considered a motor vehicle subject to the terms of this chapter.

The following motor vehicles shall be specifically exempted from this definition:

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

- (a) Motor vehicles in operating condition and specifically adapted or constructed for racing or operation on privately owned drag strips or race ways; and
- (b) Motor vehicles retained by the owner for bona fide antique collection purposes rather than for salvage or transportation.
- (5) "Abandoned or inoperable appliance." Any manufactured appliance not functional and not presently used for its manufactured purpose.
- (6) "Pools of water." Any accumulation of water or other liquid which is allowed to accumulate and remain upon any premises which shall become stagnant and foul.
- (7) "Maintenance of nuisance." Any act of any person or group with the city whereby the health or life of any person may be endangered, injured or impaired, or any disease may, directly or indirectly, be caused by the act, or because of the act any property may be endangered, injured or damaged, is hereby declared to be a nuisance and is unlawful. (1989 Code, § 8-101)

13-102. Prohibited acts. The following acts shall be prohibited:

- (1) <u>Grass and weeds</u>. No owner of any lot, place or area within the city, or the agent of such owner, shall permit on any developed lot, place or area, or on any undeveloped lot, place or area within one hundred fifty (150) feet of any street, residential, or commercial property, any weeds or grass of a height in excess of twelve inches.
- (2) <u>Dead tree</u>. Any dead tree as defined under § 13-101 shall be prohibited within the corporate limits of the city.
- (3) Motor vehicles. It shall be unlawful to have on any premises any vehicle as defined hereinabove. Provided, however, this chapter is not applicable to the temporary storage of such defined vehicles when such storage is incidental to a related commercial business. Provided, however, that such temporary storage is limited to no more than five such vehicles at any one time. If any additional temporary storage of such vehicles is done, said vehicle shall only be allowed in an enclosed facility meeting the following screening requirements:
 - (a) A fence a minimum 6' high;
 - (b) Sight obscuring.

None of the provisions of this chapter shall apply to the following:

- (i) Motor vehicles in operating condition and specifically adapted or constructed for racing or operation on privately owned drag strips or raceways; and
- (ii) Motor vehicles retained by the owner for bona fide antique collection purposes rather than for salvage or transportation.
- (4) <u>Storage of abandoned appliances</u>. Storage of any abandoned appliance as defined in § 13-101 is prohibited. Provided, however, this chapter

is not applicable to the temporary storage of such abandoned appliances when such storage is incidental to a related business.

- (5) <u>Acts of nuisance</u>. Acts of nuisance shall include but are not expressly restricted to:
 - (a) The owner, occupant, or agent of any owner or occupant of lots, parcels, or areas within the city permitting the premises to become unsanitary or a fire menace by allowing any offensive or unsafe matter to grow, accumulate, or otherwise occupy and remain upon such premises.
 - (b) The owner, occupant, or agent of any owner or occupant of lots, parcels or areas within the city permitting pools of water to accumulate and remain upon the premises.
 - (c) The owner, occupant, or agent of any owner or occupant of lots parcels, or ares within the city in a residential area allowing any prohibited item as defined in § 13-101 to accumulate and remain upon the premises as a possible harborage for rats, snakes, or other vermin. (1989 Code, § 8-102)
- **13-103.** Enforcement. The city police officer is hereby authorized and empowered to investigate and order the correction of any violations of the terms and conditions of this chapter. (1989 Code, § 8-103)
- 13-104. Notice to correct violations. Upon the failure of any owner to cut, trim, remove, screen, or otherwise abate any of the prohibited acts cited in § 13-102 of any of the defined conditions, it shall be the duty of the city police officer to serve a notice mailed by certified mail to the last known address of the person or persons having ownership, possession, or control over the offending premises, or such notice may be served personally to the owner of the property, or may be posted on the property on which the violation exists. Said notice shall set forth those requirements for bringing said property within the terms and conditions of this chapter and shall state that said corrective action shall be taken within fifteen (15) days from the receipt of said notice or posting. (1989 Code, § 8-104)
- 13-105. Action in the event of noncompliance. Upon the failure of any owner of lots or property which is in violation of the terms and conditions of this chapter to correct said violations within fifteen (15) days from notice thereof, the board of aldermen is authorized and directed to correct such violations as specified in this chapter and a statement of the costs thereof shall be prepared and filed with the city recorder for collection. The cost to said owner shall be billed at a designated hourly rate to be determined by the board of aldermen based upon the hourly cost of personnel and equipment used in said removal, or any actual costs for such private services which were contracted by the city, but in no case shall said charge be less than twenty-five and no/100

dollars (\$25.00). The costs and expenses incurred by the city under the provisions of this section shall be billed to the owner of said property. If said charges have not been paid by such owner within thirty (30) days after the date of billing, then the provisions of § 13-106 shall apply. (1989 Code, § 8-105)

13-106. Collection of unpaid costs. Where the full amount due the city is not paid by such owner within thirty (30) days after billing for the work required under the provisions of this section, then and in that case, the city recorder shall cause to be recorded in the Register's Office of Henry County, Tennessee, a sworn statement showing the costs and expenses incurred by the city or the costs and expenses incurred on behalf of the city, for the work, the date on which said work was done, and the property on which said work was done. The recordation of such sworn statement shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due, plus court costs, attorney's fees, and any other costs of collection, until final payment has been made; said costs and expenses shall be collected in the manner fixed by law for the collection of taxes and, further, shall be subject to a delinquent penalty of eighteen percent (18%) per annum in the event same is not paid in full on or before the date the tax bill on said property is due and payable; sworn statements recorded in accordance with the provisions hereof shall be prima facie with the evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of this statement, plus delinquent penalty and other costs and expenses, constitute a charge against the property designated or described in the statement, and that the same is due and collectible as provided by law, when placed in the hands of the city attorney for collection. (1989 Code, § 8-106)

JUNKYARDS

SECTION

13-201. Junkyards.

- **13-201.** <u>Junkyards</u>. All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:
- (1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.
- (2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.
- (3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1989 Code, § 8-501)

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

SLUM CLEARANCE¹

- 13-301. Findings of board.
- 13-302. Definitions.
- 13-303. "Public officer" designated; powers.
- 13-304. Initiation of proceedings; hearings.
- 13-305. Orders to owners of unfit structures.
- 13-306. When public officer may repair, etc.
- 13-307. When public officer may remove or demolish.
- 13-308. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-309. Basis for a finding of unfitness.
- 13-310. Service of complaints or orders.
- 13-311. Enjoining enforcement of orders.
- 13-312. Additional powers of public officer.
- 13-313. Powers conferred are supplemental.
- 13-301. 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. (1989 Code, § 4-101)
- **13-302.** <u>Definitions</u>. (1) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.
- (2) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.
- (3) "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.
- (4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

- (5) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.
- (6) "Structures" shall mean any building or structure, or part thereof, used for human occupation or use and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (1989 Code, § 4-102)
- 13-303. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the mayor of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the mayor. (1989 Code, § 4-103)
- 13-304. <u>Initiation of proceedings; hearings</u>. 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 board of mayor and aldermen 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 board of mayor and aldermen. (1989 Code, § 4-104)
- 13-305. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the board of mayor and aldermen determines that the structure under consideration is unfit for human occupation or use, the public officer shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:
- (1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human 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. (1989 Code, § 4-105)

- 13-306. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use; the use or occupation of this building for human occupation or use is prohibited and unlawful." (1989 Code, § 4-106)
- 13-307. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (1989 Code, § 4-107)
- 13-308. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such costs were incurred. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Henry 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, provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or as otherwise may be provided by the charter or ordinances of the city. (1989 Code, § 4-108)
- 13-309. <u>Basis for a finding of unfitness</u>. 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; 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. (1989 Code, § 4-109)

- 13-310. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such 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. 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 Henry County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (1989 Code, § 4-110)
- 13-311. 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 suit in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (1989 Code, § 4-111)

- 13-312. <u>Additional powers of public officer</u>. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:
- (1) To investigate conditions of the structures in the 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. (1989 Code, § 4-112)

13-313. <u>Powers conferred are supplemental</u>. 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. (1989 Code, § 4-113)

JUNKED VEHICLES

- 13-401. Definitions.
- 13-402. Violations a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Penalty for violations.
- 13-401. <u>Definitions</u>. 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) "Sight obscuring fence" shall mean a fence approved by the Puryear Board of Mayor and Aldermen and which is a continuous, opaque, unperforated barrier extending from the surface of the ground to a uniform height of not less than six feet (6') from the ground at any given point, constructed dirt, wood, stone, steel, or other metal or any substance of a similar nature and strength.
- (4) "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 which vehicles ordinarily use for travel.
- (5) "Vehicle" shall mean any airplane, farm machinery or implements, and machines 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, recreation vehicles, tractors, trailers, semi tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.
 - (a) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one (1) 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, or 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) Mere licensing of such a vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle. (as added by Ord. #48-05, Sept. 2005)

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 temporarily park, store, keep, maintain on private property a junk vehicle for more than thirty (30) days. (as added by Ord. #48-05, Sept. 2005)

- **13-403.** Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle, race car, or an antique vehicle on private property under the following conditions:
 - (a) The junk vehicle, race car, or antique 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; and/or
 - (b) The junk vehicle, race car, or antique vehicle is hidden from adjoining property, including public streets and alleys, by a sight-obscuring fence of at least six feet (6') in height.
- (2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city. (as added by Ord. #48-05, Sept. 2005)
- 13-404. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the Puryear Police Department is authorized to issue ordinance summons for violations of this chapter on private property. The police department shall upon the complaint of any citizen, or acting on its own initiative, investigate complaints of junked vehicles on private property. If after such investigation the police department finds a junked vehicle on private property, it 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 answer the charges against him or them. If the offender refuses to sign the agreement to appear, the police department 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 <u>Tennessee Code Annotated</u>, § 7-63-101, <u>et</u>. <u>seq</u>, or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. (as added by Ord. #48-05, Sept. 2005)

13-405. <u>Penalty for violation</u>. Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall constitute a separate violation. (as added by Ord. #48-05, Sept. 2005)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

- 1. MOBILE HOME PARK AND SUBDIVISION REGULATIONS.
- 2. FLOOD DAMAGE PREVENTION ORDINANCE.

CHAPTER 1

MOBILE HOME PARK AND SUBDIVISION REGULATIONS

- 14-101. Intent.
- 14-102. Permitted principal uses and structures.
- 14-103. Permitted accessory uses and structures.
- 14-104. Prohibited uses and structures.
- 14-105. Development requirements.
- 14-106. Recreation and open space.
- 14-107. Off-street parking requirements.
- 14-108. Procedures for approval of plan for mobile home park or mobile home subdivision.
- 14-101. <u>Intent</u>. The purpose of this chapter is to provide suitable areas within the community for the location of mobile home parks and mobile home subdivisions either separately or in combination. The intent is to allow occupancy of mobile homes on individual lots or in mobile home parks with related uses and facilities in keeping with the character of residential development. (Ord. #25-97, Aug. 1997)
- **14-102.** <u>Permitted principal uses and structures</u>. The following principal uses and structures are permitted by right: Mobile homes located in mobile home parks and mobile homes on individual subdivided lots. (Ord. #25-97, Aug. 1997)
- 14-103. <u>Permitted accessory uses and structures</u>. (1) Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures including approved storage facilities.
- (2) Other facilities may include office or service related facilities in regard to mobile space rental and maintenance.
- (3) Parks, playgrounds, community centers, and non-commercial recreational facilities including playgrounds, shuffleboard courts, swimming pools, and tennis courts.

- (4) Structures and uses required for operation of required utilities including necessary easements and rights-of-way. (Ord. #25-97, Aug. 1997)
- **14-104.** Prohibited uses and structures. (1) All uses and structures not specifically permitted herein.
- (2) A travel trailer shall not be located nor used for temporary or permanent occupancy within the mobile home park and mobile home subdivision. (Ord. #25-97, Aug. 1997)
- 14-105. <u>Development requirements</u>. (1) <u>Minimum site area</u>. The minimum area for any mobile home park or mobile home subdivision is three acres.
- (2) <u>Site planning and improvements</u>. Within the mobile home park or mobile home subdivision, the following site planning and improvements shall provide protection of the development from potentially adverse surrounding influences and protection of adjacent areas from potentially adverse influences within the development.
 - (a) Yards, fences, walls, or screening. Fences, walls, or screening shall be provided along the boundaries of the mobile home park or mobile home subdivision where needed to protect residents from undesirable views, lighting, noise, or other off-site influences or to protect occupants or adjoining residential districts. The board of aldermen shall be the exclusive arbiter of the requirement of such installations. All services are for storage and collection of trash and garbage shall be screened.
 - (b) <u>Exterior yards</u>. In addition to the requirements for development, the following requirements shall also apply:
 - (i) Where the mobile home parks or mobile home subdivision adjoins the public street along boundaries, a yard of at least 25 feet in depth shall be provided along such streets.
 - (ii) Where the mobile home park or mobile home subdivision adjoins another residential lot, street or alley, a yard of at least twenty (20) feet in depth shall be provided adjacent to such boundaries.
 - (iii) Greater depth and/or screen planting walls, or fences may be required in any exterior yard where necessary to provide protection of dwellings in the development of traffic, noise, and lights or from other adverse influences outside the development. The board of aldermen shall be the exclusive arbiter as to the requirement of said installation.
 - (c) Streets, drives, parking, and service areas. Within a mobile home park or mobile home subdivision, streets, drives, parking and service areas shall provide safe and convenient access to dwelling units and related facilities, and for service and emergency vehicles; however,

streets shall not be designed to encourage outside traffic to traverse the development on minor streets, nor occupy more space than is required to provide access as indicated, nor create unnecessary fragmentation of the development into small blocks.

- (i) Streets are to be dedicated to the City of Puryear and shall be a minimum of thirty (30) feet and be constructed of asphalt.
- (ii) Vehicular and pedestrian access points shall be designed to encourage smooth traffic flow and minimum standards to vehicular and pedestrian traffic. Minor streets shall not be connected with the streets outside the mobile home park or the mobile home subdivision in such a way as to encourage the use of such minor streets by substantial amounts of through traffic.
- (iii) Access for pedestrians or cyclists entering or leaving the mobile home park or mobile home subdivision shall be safe and convenient routes. Such ways need not be adjacent to, or limited to the vicinity of vehicular access point; however, where such ways are exposed to substantial vehicular traffic at edges of mobile home park or mobile home subdivision, safeguards may be required to prevent crossings except at designated points.
- (d) <u>Minimum lot size</u>. Each lot within the mobile home park or mobile home subdivision shall have a minimum of 5,000 square feet. (Ord. #25-97, Aug. 1997)
- 14-106. <u>Recreation and open space</u>. (1) <u>General</u>. Yards and other open spaces required herein shall be designed to insure adequate privacy, usable outdoor living space, natural light and ventilation, access to and around the units, off-street parking space, and appropriate space between dwellings and other buildings, for reducing potential adverse effects or noise, odor, glare or hazards of fire.
- (2) <u>Exterior yard</u>. No group parking facilities for common use shall be located in any required exterior yard adjoining lots in residential use. (Ord. #25-97, Aug. 1997)
- 14-107. <u>Off-street parking requirements</u>. Each lot shall have at least two (2) spaces adequate for off-street parking for appropriate vehicles. (Ord. #25-97, Aug. 1997)
- 14-108. <u>Procedures for approval of plan for mobile home park or mobile home subdivision</u>. (1) <u>Applications</u>. A petition for establishment of a mobile home park or mobile home subdivision shall be submitted to the board of alderman twenty (20) days prior to any regular meeting of the board of alderman.

- (2) <u>Preliminary plan</u>. An applicant requesting permission to establish a mobile home park or mobile home subdivision shall submit a preliminary plan for the development. The preliminary plan shall be included with the application and shall indicate the specific proposals for development of the mobile home park or mobile home subdivision in conformance with the mobile home park or mobile home subdivision ordinance herein.
- (3) Action by the board of alderman on said application. The board of alderman shall review the petition and preliminary plan for conformance with all appropriate regulations. After appropriate review within ten (10) days after submission of the petition of the preliminary plan, the board of alderman shall make following findings:
 - (a) As to the suitability of the site for the proposed mobile home park or mobile home subdivision in terms of relation to the surrounding area and existing and probable future development.
 - (b) As to the relation to major transportation facilities, utilities, public facilities, and services.
 - (c) As to adequacy of evidence of verified control and suitability of any proposed agreements, contract, deed restrictions, sureties, or other instruments or in need for such instruments or for amendments in those proposed.
 - (d) Based on such findings, the board of alderman shall recommend:
 - (i) Approval of the mobile home park or subdivision;
 - (ii) Approval conditioned on stipulated modification; or
 - (iii) Disapproval.
- Action by applicant after action taken by board of alderman upon hearing. If the board of alderman shall approve said proposed plan, then a final plan shall be submitted to the board of alderman within sixty (60) days for final approval. If the board of alderman shall conditionally approve the application and preliminary plan, proper modification shall be made and shall be submitted within sixty (60) days to the board of alderman for approval. If the board of alderman shall disapprove the application and the preliminary plan, the applicant shall be allowed ninety (90) days in which to resubmit a plan to the board of alderman for consideration and approval.
- (5) <u>Compliance with other code provisions</u>. All applicants submitting a proposal for a mobile home park or mobile subdivision shall apply with all other code provisions now in existence, including all requirements for water and sewer installation within the City of Puryear. (Ord. #25-97, Aug. 1997)

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

- 14-201. Statutory authorization, findings of fact, purpose and objectives.
- 14-202. Definitions.
- 14-203. General provisions.
- 14-204. Administration.
- 14-205. Provisions for flood hazard reduction.
- 14-206. Variance procedures.
- 14-207. Legal status provisions.

14-201. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Private Acts 1992, Chapter 222, 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 Puryear, Tennessee Mayor and its Legislative Body does ordain as follows:

- (2) <u>Findings of fact.</u> (a) The Puryear Mayor and its Legislative Body wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 C.F.R. ch. 1 (10-1-04 edition).
- (b) Areas of Puryear 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, flood-proofed, or otherwise unprotected from flood damages.
- (3) <u>Statement of purpose</u>. It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:
 - (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 flood waters;
- (d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and
- (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 ordinance are:
 - (a) To protect human life, health 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 floodable areas;
- (f) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize blight in flood areas;
- (g) To ensure that potential homebuyers are notified that property is in a floodable area; and
- (h) To establish eligibility for participation in the National Flood Insurance Program. (as added by Ord. #50-06, Nov. 2006)
- 14-202. <u>Definitions</u>. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.
- (1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:
 - (a) Accessory structures shall not be used for human habitation.
 - (b) Accessory structures shall be designed to have low flood damage potential.
 - (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.

- (d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.
- (2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.
- (3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered "new construction."
- (4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.
- (5) "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.)
- (6) "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.
- (7) "Area of special flood hazard" 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.
- (8) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- (9) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.
- (10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- (11) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (see "structure").
- (12) "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 permanent storage of equipment or materials.

- (13) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood water, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.
- (14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.
- (15) "Erosion" means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.
- (16) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.
- (17) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP)).
- (18) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).
 - (19) "Existing structures." See "existing construction."
- (20) "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).
- (21) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters;
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (22) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood

level that has a one percent (1%) or greater chance of occurrence in any given year.

- (23) "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.
- (24) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.
- (25) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.
- (26) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.
- (27) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").
- (28) "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.
- (29) "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.
- (30) "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, structures and their contents.
- (31) "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.
- (32) "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.

- (33) "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 flood plain management regulations.
- (34) "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.
- (35) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.
- (36) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.
- (37) "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.
- (38) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.
 - (39) "Historic structure" means any structure that is:
 - (a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

- (d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - (i) By an approved state program as determined by the Secretary of the Interior; or
 - (ii) Directly by the Secretary of the Interior.
- (40) "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.
- (41) "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.
- (42) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood-resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- (43) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.
- (44) "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.
- (45) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.
- (46) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.
- (47) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.
- (48) "New construction" means any structure for which the "start of construction" commenced after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

- (49) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.
- (50) "North American Vertical Datum (NAVD)" as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.
 - (51) "100-year flood." See "base flood."
- (52) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.
 - (53) "Recreational vehicle" means a vehicle which is:
 - (a) Built on a single chassis;
 - (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - (c) Designed to be self-propelled or permanently towable by a light duty truck; and
 - (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (54) "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.
- (55) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- (56) "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.
- (57) "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.

- (58) "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the administrator to assist in the implementation of the National Flood Insurance Program for the state.
- (59) "Structure," for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.
- (60) "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.
- (61) "Substantial improvement" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:
 - (a) The appraised value of the structure prior to the start of the initial repair or improvement; or
 - (b) In the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

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

- (62) "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.
- (63) "Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.
- (64) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.
- (65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of riverine areas. (as added by Ord. #50-06, Nov. 2006)
- **14-203.** <u>General provisions</u>. (1) <u>Application</u>. This ordinance shall apply to all areas within the incorporated area of Puryear, Tennessee.
- (2) <u>Basis for establishing the areas of special flood hazard</u>. The areas of special flood hazard identified on the Henry County, Tennessee, and incorporated areas Federal Emergency Management Agency Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number 47079C0200 E, dated September 28, 2007, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.
- (3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.
- (4) <u>Compliance</u>. 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) <u>Abrogation and greater restrictions</u>. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.
- (6) <u>Interpretation</u>. 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 ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Puryear, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- (8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance, shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Puryear, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #50-06, Nov. 2006, and amended by Ord. #55-07, May 2007)
- 14-204. <u>Administration</u>. (1) <u>Designation of ordinance administrator</u>. The floodplain management official is hereby appointed as the administrator to implement the provisions of this ordinance.
- (2) <u>Permit procedures</u>. 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 BFEs are available, or to the highest adjacent grade when applicable under this ordinance.
 - (ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.
 - (iii) Design certificate from a registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-204(2).

- (iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (b) Construction stage. (i) Within unnumbered A Zones, where flood elevation data are not available, the administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.
- (ii) For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A Zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.
- (iii) Any lowest floor certification made relative to mean sea level shall be prepared by, or under the direct supervision of, a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same.
- (iv) 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) <u>Duties and responsibilities of the administrator</u>. Duties of the administrator shall include, but not be limited to:
 - (a) Review of all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
 - (b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
 - (c) Notification to 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 submission of evidence of such notification to the Federal Emergency Management Agency.

- (d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the letter of map revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
- (e) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 14-204(2).
- (f) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been floodproofed, in accordance with § 14-204(2).
- (g) When floodproofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with § 14-204(2).
- (h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.
- (i) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community FIRM meet the requirements of this ordinance.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this ordinance). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-204(2).

(j) All records pertaining to the provisions of this ordinance shall be maintained in the office of the administrator and shall be open for public inspection.

Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #50-06, Nov. 2006)

14-205. <u>Provisions for flood hazard reduction</u>. (1) <u>General</u> standards. In all flood-prone areas the following provisions are required:

- (a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (c) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;
- (d) New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;
- (e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance; and
- (j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance shall be undertaken only if said nonconformity is not further extended or replaced.

- (2) <u>Specific standards</u>. These provisions shall apply to all areas of special flood hazard as provided herein:
 - (a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than 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 and to ensure unimpeded movement of flood water shall be provided in accordance with the standards of § 14-205(2).

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this ordinance). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-204(2).

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one foot (1') above the level of the base flood elevation.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this ordinance). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-204(2).

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 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 § 14-204(2).

(c) Elevated building. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the

entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

- (i) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.
 - (A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - (B) The bottom of all openings shall be no higher than one foot (1') above the finish grade; and
 - (C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of flood waters in both directions.
- (ii) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and
- (iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of flood waters and all such petitions shall comply with the provisions of § 14-205(2) of this ordinance.
- (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, including elevations and anchoring.
- (ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - (A) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one foot (1') above the level of the base flood elevation; or
 - (B) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three feet (3') in height above the highest adjacent grade.

- (iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of § 14-205(2)(d) of this ordinance.
- (iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (v) All recreational vehicles placed on identified flood hazard sites must either:
 - (A) Be on the site for fewer than one hundred eighty (180) consecutive days.
 - (B) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.
 - (C) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred eighty (180) consecutive days.
- (e) Standards for subdivisions. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:
 - (i) All subdivision proposals shall be consistent with the need to minimize flood damage.
 - (ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
 - (iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - (iv) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.
- (3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 14-203(2) are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of flood waters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without

increased flood heights and velocities. Therefore, the following provisions shall apply:

- (a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in any increase of the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.
- (b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 14-215.
- (4) <u>Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated</u>. Located within the areas of special flood hazard established in § 14-203(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:
 - (a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
 - (b) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-205(2).
- (5) <u>Standards for streams without established base flood elevations or floodways (A Zones)</u>. Located within the areas of special flood hazard established in § 14-203, where streams exist, but no base flood data has been provided (A Zones), or where a floodway has not been delineated, the following provisions shall apply:
 - (a) When base flood elevation data or floodway data have not been provided in accordance with § 14-203, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of § 14-205. Only if data is

not available from these sources, then the following provisions, (b) and (c), shall apply.

- (b) 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 registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- (c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet (3') above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with the standards of § 14-205(2) and "elevated buildings."
- (6) Standards for areas of shallow flooding (AO and AH Zones). Located within the areas of special flood hazard established in § 14-203(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:
 - (a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of § 14-205(2) and "elevated buildings."
 - (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 specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be floodproofed to at least three feet (3') above the highest adjacent grade. A registered

professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in § 14-204(2).

- (c) Adequate drainage paths shall be provided around slopes to guide flood waters around and away from proposed structures.
- (d) The administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.
- (7) Standards for areas protected by flood protection system (A99 Zones). Located within the areas of special flood hazard established in § 14-203 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A99 Zones) all provisions of §§ 14-204 and 14-205(1) shall apply.
- (8) <u>Standards for unmapped streams</u>. Located within Puryear, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:
 - (a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within 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 registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.
 - (b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with § 14-204. (as added by Ord. #50-06, Nov. 2006)

14-206. <u>Variance procedures</u>. (1) <u>Board of floodplain review</u>.

- (a) Creation and appointment. A board of floodplain review is hereby established which shall consist of three (3) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years respectively. Vacancies shall be filled for any 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 thereon, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the legislative body.

- 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 \$ 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 fifteen (15) 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 the carrying out or enforcement of any provisions of this ordinance.
 - (ii) Variance procedures. In the case of a request for a variance the following shall apply:
 - (A) The Puryear Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this ordinance.
 - (B) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
 - (C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance; and

- (1) The danger that materials may be swept onto other property to the injury of others;
- (2) The danger to life and property due to flooding or erosion;
- (3) The susceptibility of the proposed facility and its contents to flood damage;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (D) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this ordinance.
- (E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (2) <u>Conditions for variances</u>. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.
- (b) Variances shall only be issued upon: a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a

variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- (c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance.
- (d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (as added by Ord. #50-06, Nov. 2006)
- 14-207. <u>Legal status provisions</u>. (1) <u>Conflict with other ordinances</u>. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of Puryear, Tennessee, the most restrictive shall in all cases apply.
- (2) <u>Validity</u>. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional. (as added by Ord. #50-06, Nov. 2006)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. EMERGENCY VEHICLES.
- 3. SPEED LIMITS.
- 4. TURNING MOVEMENTS.
- 5. STOPPING AND YIELDING.
- 6. PARKING.
- 7. ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.
- 15-113. Driving through funerals or other processions.

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

Under <u>Tennessee Code Annotated</u>, § 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 <u>Tennessee Code Annotated</u>, § 55-10-401; failing to stop after a traffic accident, as prohibited by <u>Tennessee Code Annotated</u>, § 55-10-101, <u>et seq.</u>; driving while license is suspended or revoked, as prohibited by <u>Tennessee Code Annotated</u>, § 55-7-116; and drag racing, as prohibited by <u>Tennessee Code Annotated</u>, § 55-10-501.

¹Municipal code reference

²State law references

- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-122. Delivery of vehicle to unlicensed driver, etc.
- 15-123. Engine compression braking devices regulated.
- 15-124. Compliance with financial responsibility law required.
- 15-125. Traffic offender program; qualifications and restrictions.
- **15-101.** <u>Motor vehicle requirements</u>. 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 <u>Tennessee Code Annotated</u>, title 55, chapter 9. (1989 Code, § 9-101)
- **15-102.** <u>Driving on streets closed for repairs, etc</u>. 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. (1989 Code, § 9-102)
- **15-103.** Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1989 Code, § 9-103)
- 15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1989 Code, § 9-105)
- **15-105.** <u>Unlaned streets</u>. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:
 - (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.
 - (b) When the right half of a roadway is closed to traffic while under construction or repair.
 - (c) Upon a roadway designated and signposted by the city for one-way traffic.
- (2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as

close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1989 Code, § 9-106)

15-106. <u>Laned streets</u>. 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. (1989 Code, § 9-107)

- 15-107. <u>Yellow lines</u>. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1989 Code, § 9-108)
- **15-108.** <u>Miscellaneous traffic-control signs, etc</u>. 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 willfully to violate or fail to comply with the reasonable directions of any police officer. (1989 Code, § 9-109)

15-109. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,² published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as being mandatory but is merely directive. (1989 Code, § 9-110)

¹Municipal code references

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

²This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

- 15-110. <u>Unauthorized traffic-control signs</u>, 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. (1989 Code, § 9-111)
- 15-111. <u>Presumption with respect to traffic-control signs, etc.</u> 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 city authority. (1989 Code, § 9-112)
- 15-112. <u>School safety patrols</u>. 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. (1989 Code, § 9-113)
- 15-113. <u>Driving through funerals or other processions</u>. 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. (1989 Code, § 9-114)
- **15-114.** Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1989 Code, § 9-115)
- 15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1989 Code, § 9-116)
- 15-116. <u>Backing vehicles</u>. 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. (1989 Code, § 9-117)

- 15-117. <u>Projections from the rear of vehicles</u>. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1989 Code, § 9-118)
- **15-118.** <u>Causing unnecessary noise</u>. 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. (1989 Code, § 9-119)
- **15-119.** <u>Vehicles and operators to be licensed</u>. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1989 Code, § 9-120)
- **15-120.** Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. $(1989 \text{ Code}, \S 9-121)$

- 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, 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 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) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.
- (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 resistent 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. (1989 Code, § 9-122)

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

- (1) <u>Definitions</u>. (a) "Juvenile" as used in this chapter shall mean a person less than eighteen (18) years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.
- (b) "Adult" shall mean any person eighteen (18) years of age or older.
- (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) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.
- (e) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.
- (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 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 in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city. (1989 Code, § 9-123)
- **15-123.** Engine compression braking devices regulated. (1) All truck tractor and semi-trailers operating within the City of Puryear shall conform to the visual exhaust system inspection requirements, 40 C.F.R. 202.22 of the Interstate Motor Carriers Noise Emission Standards.

- (2) A motor vehicle does not conform to the visual exhaust system inspection requirements referenced in subsection (1) of this section if inspection of the exhaust system of the motor carrier vehicle discloses that the system:
 - (a) Has a defect that adversely affects sound reduction, such as exhaust 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 other noise dissipative device, such as a turbocharger (supercharger driven by exhaust 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. (as added by Ord. #51-06, Dec. 2006)

15-124. Compliance with financial responsibility law required.

- (1) (a) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.
- (b) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.
- (c) For the purpose of this section, "financial responsibility" means:
 - (i) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;
 - (ii) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in <u>Tennessee Code Annotated</u>, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insured under <u>Tennessee Code Annotated</u>, § 55-12-111; or
 - (iii) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the

Department of Safety or the Interstate Commerce Commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

- (2) <u>Civil offense</u>. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this chapter. Any violation of this chapter is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this chapter shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.
- (3) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this chapter may submit evidence of compliance with this chapter in effect at the time of the violation. If the court or city is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #36-02, April 2002)

15-125. <u>Traffic offender program; qualifications and restrictions</u>. A traffic program is established by the City of Puryear with the following criteria, qualifications, and restrictions:

- (1) The program shall be optional and voluntary, but not required;
- (2) Only qualified drivers shall be allowed to attend the program;
- (3) Qualified drivers shall be only those drivers receiving citations issued by the City of Puryear Police Department for moving violations committed within the city limits of Puryear, Tennessee;
- (4) A qualified driver shall be allowed to attend the program only once every twelve (12) months;
- (5) A qualified driver shall be given only one (1) chance to attend and complete the program, i.e., a qualified driver shall not be allowed to continue or change their appointed program date once it has been chosen;
- (6) Upon successful completion of the program the citation against the qualified driver shall be dismissed with costs taxed to the City of Puryear;
- (7) The costs of the program shall be eighty dollars (\$80.00) and shall be paid to the City of Puryear. (as added by Ord. #44-04, Sept. 2004)

EMERGENCY VEHICLES

SECTION

- 15-201. Authorized emergency vehicles defined.
- 15-202. Operation of authorized emergency vehicles.
- 15-203. Following emergency vehicles.
- 15-204. Running over fire hoses, etc.
- **15-201.** <u>Authorized emergency vehicles defined</u>. 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. (1989 Code, § 9-201)
- 15-202. Operation of authorized emergency vehicles.¹ (1) 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 (500) feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.
- (2) 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.
- (3) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.
- (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. (1989 Code, § 9-202)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

- **15-203.** Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1989 Code, § 9-203)
- **15-204.** Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1989 Code, § 9-204)

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-301. <u>In general</u>. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1989 Code, § 9-301)

15-302. <u>At intersections</u>. 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. (1989 Code, § 9-302)

15-303. <u>In school zones</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 55-8-152, the city shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school, or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1989 Code, § 9-303)

TURNING MOVEMENTS

SECTION

- 15-401. Generally.
- 15-402. Right turns.
- 15-403. Left turns on two-way roadways.
- 15-404. Left turns on other than two-way roadways.
- 15-401. 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. (1989 Code, § 9-401)
- 15-402. <u>Right turns</u>. 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. (1989 Code, § 9-402)
- 15-403. <u>Left turns on two-way roadways</u>. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center lines of the two roadways. (1989 Code, § 9-403)
- 15-404. <u>Left turns on other than two-way roadways</u>. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1989 Code, § 9-404)

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

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.
- 15-501. Upon approach of authorized emergency vehicles. 1 Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1989 Code, § 9-501)
- 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. (1989 Code, § 9-502)
- 15-503. <u>To prevent obstructing an intersection</u>. 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. (1989 Code, § 9-503)

Special privileges of emergency vehicles: title 15, chapter 2.

¹Municipal code reference

- **15-504.** At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:
- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.
- (3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1989 Code, § 9-504)
- **15-505.** At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1989 Code, § 9-505)
- 15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1989 Code, § 9-506)
- **15-507.** <u>At traffic-control signals generally</u>. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) 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 vellow 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. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.
- (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

- (a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.
- (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.
- (5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1989 Code, § 9-507)
- 15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:
 - (a) <u>Flashing red (stop signal)</u>. 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) <u>Flashing yellow (caution signal)</u>. 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. (1989 Code, § 9-508)
- 15-509. <u>At pedestrian control signals</u>. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the 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. (1989 Code, § 9-509)
- **15-510.** Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law, except in an emergency. (1989 Code, § 9-510)

¹State law reference <u>Tennessee Code Annotated</u>, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.
- **15-601.** Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

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

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. (1989 Code, § 9-601)

- **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 (24) feet. (1989 Code, § 9-602)
- 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 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. (1989 Code, § 9-603)
- **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; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedistrian or other traffic.

- (2) In front of a public or private driveway.
- (3) Within an intersection.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within twenty feet (20') of a crosswalk at an intersection.
- (7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway.
 - (8) Within fifty (50) feet of a railroad crossing.
- (9) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance when properly signposted.
- (10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
- (11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
- (13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is:
 - (a) Physically handicapped, or
 - (b) Parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under <u>Tennessee Code Annotated</u>, § 55-8-160(c). (1989 Code, § 9-604)
- **15-605.** <u>Loading and unloading zones</u>. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1989 Code, § 9-605)
- **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. (1989 Code, § 9-606)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Deposit of driver's license in lieu of bail.
- 15-707. Violation and penalty.
- 15-701. <u>Issuance of traffic citations</u>.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. (1989 Code, § 9-701)
- **15-702.** <u>Failure to obey citation</u>. 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. (1989 Code, § 9-702)
- 15-703. <u>Illegal parking</u>. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation. (1989 Code, § 9-703)
- **15-704.** <u>Impoundment of vehicles</u>. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle

¹State law reference

Tennessee Code Annotated, § 7-63-101, et seg.

or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been issued and the vehicle not removed. 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 of impoundment and storage, or until it is otherwise lawfully disposed of. (1989 Code, § 9-704)

- 15-705. <u>Disposal of abandoned motor vehicles</u>. "Abandoned motor vehicles," as defined in <u>Tennessee Code Annotated</u>, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of <u>Tennessee Code Annotated</u>, §§ 55-16-103 through 55-16-109. (1989 Code, § 9-705)
- 15-706. Deposit of driver's license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this city in answer to such charge before said court.
- (2) Receipt to be issued. The officer, or the court demanding bail, who receives any person chauffeur's or operator's license as herein provided, shall issue to said person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety.
- (3) Failure to appear disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with provisions of Tennessee Code Annotated, § 55-50-801 et seq. (1989 Code, § 9-706)
- **15-707.** <u>Violation and penalty</u>. Any violation of this <u>title</u> shall be a civil offense punishable as follows: (1) <u>Traffic citations</u>. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. For parking violations, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days but before a warrant is issued for his arrest, his civil penalty shall be five dollars (\$5.00). For the violation of parking in a handicapped parking space under § 15-604(13) of this code, the offender shall be punished in accordance with Tennessee Code Annotated, § 55-21-108. (1989 Code, § 9-703, modified)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. EXCAVATIONS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- **16-101.** <u>Obstructing streets, alleys, or sidewalks prohibited</u>. 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. (1989 Code, § 12-101)
- 16-102. <u>Trees projecting over streets, etc., regulated</u>. 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 (14) feet or over any sidewalk at a height of less than eight (8) feet. (1989 Code, § 12-102)
- 16-103. <u>Trees, etc., obstructing view at intersections prohibited</u>. It shall be unlawful for any property owner or occupant to have or maintain on

Related motor vehicle and traffic regulations: title 15.

¹Municipal code reference

his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1989 Code, § 12-103)

- **16-104.** Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code. (1989 Code, § 12-104)
- 16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1989 Code, § 12-105)
- 16-106. <u>Gates or doors opening over streets, alleys, or sidewalks</u> **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. (1989 Code, § 12-106)
- 16-107. <u>Littering streets, alleys, or sidewalks prohibited</u>. 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. (1989 Code, § 12-107)
- **16-108.** Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1989 Code, § 12-108)
- 16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1989 Code, § 12-109)
- **16-110.** Parades, etc., regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the city recorder. (1989 Code, § 12-110)
- **16-111.** Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning

of its approach as required by state law. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1989 Code, § 12-111, modified)

- **16-112.** Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1989 Code, § 12-112)
- **16-113.** <u>Fires in streets, etc</u>. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1989 Code, § 12-113)

CHAPTER 2

EXCAVATIONS

SECTION

- 16-201. Notification required.
- 16-202. Safety restrictions on excavations.
- 16-203. Restoration of streets, etc.
- 16-201. Notification 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 notified the city recorder; 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 such notification when emergency circumstances demand the work to be done immediately and notification cannot reasonably and practicably be given. The person shall thereafter give notification on the first regular business day on which the office of the city recorder is open for business. (1989 Code, § 12-201)
- 16-202. <u>Safety restrictions on excavations</u>. Any person, firm, corporation, association, or others making any excavation or tunnel shall provide sufficient and proper barricades and lights 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. (1989 Code, § 12-202)
- 16-203. 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. In case of unreasonable delay in restoring the street, alley, or public place, the city recorder shall give notice to the person, firm, corporation, association, or others that unless restoration is accomplished 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. (1989 Code, § 12-203)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Refuse collection fees.
- 17-101. <u>Refuse defined</u>. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1989 Code, § 8-201)
- 17-102. <u>Premises to be kept clean</u>. 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. (1989 Code, § 8-202)
- 17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons. The combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has

Property maintenance regulations: title 13.

¹Municipal code reference

been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. (1989 Code, § 8-203)

- 17-104. <u>Location of containers</u>. Where alleys are used by the city refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the 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. (1989 Code, § 8-204)
- 17-105. <u>Disturbing containers</u>. 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. (1989 Code, § 8-205)
- **17-106.** <u>Collection</u>. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the city. Collections shall be made regularly in accordance with an announced schedule. (1989 Code, § 8-206)
- 17-107. <u>Collection vehicles</u>. 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. (1989 Code, § 8-207)
- 17-108. <u>Disposal</u>. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (1989 Code, § 8-208)

17-109. <u>Refuse collection fees</u>. Refuse collection fees shall be at such rates as are from time to time set by the board of mayor and aldermen by resolution.¹ (1989 Code, § 8-209)

 $^{1}\mbox{Administrative}$ ordinances and resolutions are of record in the office of the city recorder.

TITLE 18

WATER AND SEWERS¹

CHAPTER

- 1. WATER AND SEWERS.
- 2. SEWER USE AND WASTEWATER TREATMENT.
- 3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
- 4. USER CHARGE SYSTEM.

CHAPTER 1

WATER AND SEWERS

SECTION

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Application and contract for service.
- 18-104. Service charges for temporary service.
- 18-105. Connection charges.
- 18-106. Water and sewer main extensions.
- 18-107. Water and sewer main extension variances.
- 18-108. Meters.
- 18-109. Multiple services through a single meter.
- 18-110. Customer billing and payment policy.
- 18-111. Termination or refusal of service.
- 18-112. Re-connection charge.
- 18-113. Termination of service by customer.
- 18-114. Access to customers' premises.
- 18-115. Inspections.
- 18-116. Customer's responsibility for system's property.
- 18-117. Customer's responsibility for violations.
- 18-118. Supply and resale of water.
- 18-119. Unauthorized use of or interference with water supply.
- 18-120. Limited use of unmetered private fire line.
- 18-121. Damages to property due to water pressure.
- 18-122. Liability for cutoff failures.
- 18-123. Restricted use of water.
- 18-124. Interruption of service.
- 18-125. Schedule of rates.

¹Municipal code reference Refuse disposal: title 17.

- **18-101. Application and scope**. The provisions of this chapter are a part of all contracts for receiving water and sewer service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1989 Code, § 13-101)
- **18-102.** <u>Definitions</u>. (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) "Service line" shall consist of the pipe line extending from any water or sewer main of the city to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the city's water main to and including the meter and meter box.
- (3) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.
- (4) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1989 Code, § 13-102)
- 18-103. Application and contract for service. Each prospective customer desiring water and/or sewer service and who is the owner of the premises for which service is desired shall be required to sign a standard form contract and pay a service deposit of \$20.00 before service is supplied. Prospective customers who are renters of the premises for which service is desired shall sign a standard form contract and pay a service deposit of \$50.00 before service is supplied. The service deposit shall be refundable if and only if the city cannot supply service in accordance with the terms of this chapter. 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 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, the liability of the city to the applicant shall be limited to the return of any deposit made by such applicant. (1989 Code, § 13-103)

18-104. <u>Service charges for temporary service</u>. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1989 Code, § 13-104)

18-105. <u>Connection charges</u>. Service lines will be laid by the city from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the city.

Before a new water or sewer service line will be laid by the city, the applicant shall pay a nonrefundable connection charge of \$175.00.

When a service line is completed, the city shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the city. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer. (1989 Code, § 13-105)

18-106. Water and sewer main extensions. Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

All such extensions shall be installed either by city forces or by other forces working directly under the supervision of the city in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the city, such water and/or sewer mains shall become the property of the city. The persons paying the cost of constructing such mains shall execute any written instruments requested by the city to provide evidence of the city's title to such mains. In consideration of such mains being transferred to it, the city shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of the mains. (1989 Code, § 13-106)

18-107. Water and sewer main extension variances. Whenever the board of mayor and aldermen 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 board of mayor and aldermen.

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. (1989 Code, § 13-107)

Construction of building sewers: title 18, chapter 2.

¹Municipal code reference

18-108. <u>Meters</u>. 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. (1989 Code, § 13-108)

18-109. <u>Multiple services through a single meter</u>. No customer shall supply water service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the city's applicable water schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1989 Code, § 13-109)

18-110. <u>Customer billing and payment policy</u>. Water and sewer bills shall be rendered monthly and shall be paid on or before the 15th day of the month. Bills paid after the 15th day of the month shall be subject to a 10% penalty. Failure to receive a bill shall not release a customer from payment obligation.

Payment must be received in the water and sewer department no later than 4:30 P.M. on the due date. If the due date falls on Saturday, Sunday, or a holiday, net payment will be accepted if paid on the next business day no later than 4:30 P.M.

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. (1989 Code, § 13-110)

- **18-111.** <u>Termination or refusal of service</u>. (1) <u>Basis of termination or refusal</u>. The city shall have the right to discontinue water and sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:
 - (a) These rules and regulations, including the nonpayment of bills.

- (b) The customer's application for service.
- (c) The customer's contract for service.

The right to discontinue service shall apply to all water and sewer service received through collective single connections or services, even though more than one (1) customer or tenant is furnished services therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

- (2) <u>Termination of service</u>. Reasonable written notice shall be given to the customer before termination of water service according to the following terms and conditions:
 - (a) Written notice of termination (cut-off) shall be given to the customer at least five (5) days prior to the scheduled date of termination. The cut-off notice shall specify the reason for the cut-off, and
 - (i) The amount due, including other charges.
 - (ii) The last date to avoid service termination.
 - (iii) Notification of the customer's right to a hearing prior to service termination.
 - (b) In the case of termination for nonpayment of bills, the employee carrying out the termination procedure will attempt before disconnecting service to contact the customer at the premises in a final effort to collect payment and avoid termination.
 - (c) Hearings for service termination, including for nonpayment of bills, will be held by appointment.
 - (d) Termination will not be made on any preceding day when the water and sewer department is scheduled to be closed.
 - (e) If a customer does not request a hearing, or, in the case of nonpayment of a bill, does not make payment of the bill, or does not otherwise correct the problem that resulted in the notice of termination in a manner satisfactory to the water and sewer department, the same shall proceed on schedule with service termination.
 - (f) Service termination for any reason shall be reconnected only after the payment of all charges due or satisfactory arrangements for payment have been made, or the correction of the problem that resulted in the termination of service in a manner satisfactory to the water and sewer department, plus the payment of a reconnection charge of \$20.00. (1989 Code, § 13-111)
- 18-112. <u>Termination of service by customer</u>. 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. (1989 Code, § 13-112)
- 18-113. 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. (1989 Code, § 13-113)
- 18-114. <u>Inspections</u>. 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 in compliance 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. (1989 Code, § 13-114)

18-115. <u>Customer's responsibility for system's property</u>. 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 it properly, the cost

of necessary repairs or replacements shall be paid by the customer. (1989 Code, § 13-115)

- 18-116. <u>Customer's responsibility for violations</u>. 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. (1989 Code, § 13-116)
- 18-117. <u>Supply and resale of water</u>. 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. (1989 Code, § 13-117)
- 18-118. <u>Unauthorized use of or interference with water supply</u>. 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. (1989 Code, § 13-118)
- 18-119. <u>Limited use of unmetered private fire line</u>. 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. (1989 Code, § 13-119)

- 18-120. <u>Damages to property due to water pressure</u>. 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. (1989 Code, § 13-120)
- 18-121. <u>Liability for cutoff failures</u>. 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 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. (1989 Code, § 13-121)

- 18-122. <u>Restricted use of water</u>. 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. (1989 Code, § 13-122)
- **18-123.** <u>Interruption of service</u>. 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 damages 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 damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1989 Code, § 13-123)

18-124. <u>Schedule of rates</u>. 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 (1989 Code, § 13-124)

¹Administrative ordinances and resolutions are of record in the office of the city recorder.

CHAPTER 2

SEWER USE AND WASTEWATER TREATMENT

SECTION

- 18-201. Definitions.
- 18-202. Connection to public sewers.
- 18-203. Private domestic wastewater disposal.
- 18-204. Regulation of holding tank waste disposal.
- 18-205. Application for domestic wastewater discharge and industrial wastewater discharge permits.
- 18-206. Discharge regulations.
- 18-207. Industrial user monitoring, inspection reports, records access, and safety.
- 18-208. Enforcement and abatement.
- 18-209. Fees and billing.
- 18-201. <u>Definitions</u>. 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 33 U.S.C. 1251, et seq.
- (2) "Approval authority" The director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.
- (3) "Authorized representative of industrial user" An authorized representative of an industrial user may be:
 - (a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
 - (b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;
 - (c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.
- (4) "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 20° centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).
- (5) "Building sewer" A sewer conveying wastewater from the premises of a user to the POTW.
- (6) "Categorical standards" The National Categorical Pretreatment Standards or Pretreatment Standard.

- (7) "City" The City of Puryear or the Board of Mayor and Aldermen, City of Puryear, Tennessee.
- (8) "Compatible pollutant" Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.
- (9) "Cooling water" The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.
- (10) "Control authority" The term "control authority" shall refer to the "approval authority," defined hereinabove; or the board of mayor and aldermen if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.
- (11) "Customer" Means 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.
- (12) "Direct discharge" The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.
- (13) "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.
- (14) "Environmental Protection Agency, or EPA" The U. S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.
- (15) "Garbage" Shall mean solid wastes generated from any domestic, commercial or industrial source.
- (16) "Grab sample" A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- (17) "Holding tank waste" Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (18) "Incompatible pollutant" Shall mean any pollutant which is not a "compatible pollutant" as defined in this section.
- (19) "Indirect discharge" The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).
- (20) "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).

- (21) "Interference" The inhibition or disruption of the municipal wastewater processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.
- (22) "National categorical pretreatment standard or pretreatment standard" Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.
- (23) "NPDES (National Pollution Discharge Elimination System)" Shall mean 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 Federal Water Pollution Control Act as amended.
- (24) "New source" Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.
- (25) "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.
- (26) "pH" The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (27) "Pollution" The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- (28) "Pollutant" Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.
- (29) "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 as prohibited by 40 CFR Section 40.36(d).

- (30) "Pretreatment requirements" Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.
- (31) "Publicly owned treatment works (POTW)" A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with users of the city's POTW.
- (32) "POTW treatment plant" That portion of the POTW designed to provide treatment to wastewater.
 - (33) "Shall" is mandatory; "May" is permissive.
- (34) "Slug" Shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.
 - (35) "State" The State of Tennessee.
- (36) "Standard industrial classification (SIC)" A classification pursuant to the <u>Standard Industrial Classification Manual</u> issued by the Executive Office of the President, Office of Management and Budget, 1972.
- (37) "Storm water" Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (38) "Storm sewer or storm drain" Shall mean 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 city.
- (39) "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.
- (40) "Superintendent" The mayor 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.

- (41) "Toxic pollutant" Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.
- (42) "Twenty-four (24) hour flow proportional composite sample" A sample consisting of several sample portions collected during a 24-hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.
- (43) "User" Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.
- (44) "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 POTW.
 - (45) "Wastewater treatment systems" Defined the same as POTW.
- (46) "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. (1989 Code, § 8-301)
- 18-202. <u>Connection to public sewers</u>. (1) <u>Requirements for proper wastewater disposal</u>. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the City of Puryear, any human or animal excrement, garbage, or other objectionable waste.
 - (b) 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.
 - (c) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
 - (d) Except as provided in § 18-202(1)(e) 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 public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the property line over public access.
 - (e) 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.

- (f) Where a public sanitary sewer is not available under the provisions of § 18-202(1)(d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-203 of this chapter.
- (2) <u>Physical connection public sewer</u>. (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 obtaining a written permit from the city as required by § 18-205 of this chapter.

The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the city. A connection fee shall be paid to the city at the time the application is filed.

- (b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the 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 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, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- (d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the city to meet all requirements of this chapter. All others may be sealed to the specifications of the city.
 - (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").

Small diameter gravity sewer - Two inches (2").

Septic Tank Effluent Pump - One and one quarter inches $(1\frac{1}{4})$.

Where the septic tank becomes an integral part of the collection and treatment system, the minimum size influent line shall be four inches (4") and the minimum size of septic tank shall be 1,000 gallons. Septic tanks shall be constructed of polyethylene and protected from flotation. The city shall have the right, privilege, and authority to locate, inspect, operate, and maintain

septic tanks which are an integral part of the collection and treatment system.

- (ii) The minimum depth of a building sewer shall be eighteen inches (18").
 - (iii) Building sewers shall be laid on the following grades: Four inch (4") sewers 1/8 inch per foot.

Two inch (2") sewers - 3/8 inch per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

- (iv) Slope and alignment of all building sewers shall be neat and regular.
- (v) Building sewers shall be constructed only of ductile iron pipe class 50 or above or polyvinyl chloride pipe SDR-35 for gravity sewers and SDR-21 for pressure sewers. Joints shall be rubber or neoprene "o" ring compression joints. No other joints shall be acceptable.
- (vi) A cleanout shall be located five (5) feet outside of the building, one as it crosses the property line and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of six (6) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches.
- (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 sewers 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 city. All such connections shall be made gastight and watertight.
- (viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/18-inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building

drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a pump 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 of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the city 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, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.
- (3) <u>Inspection of connections</u>. (a) 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 mayor or his authorized representative.
- (b) The applicant for discharge shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the mayor or his representative.
- (4) <u>Maintenance of building sewers</u>. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance which will include repair or replacement of the building sewer as deemed necessary by the city to meet specifications of the city. (1989 Code, § 8-302)

18-203. Private domestic wastewater disposal. (1) Availability.

- (a) Where a public sanitary sewer is not available under the provisions of § 18-202(1)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.
- (b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to 1/18-inch per foot in

the building sewer but is otherwise accessible to a public sewer as provided in § 18-202, the owner shall provide a private sewage pumping station as provided in § 18-202(2)(e)(viii).

- (c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.
- (2) Requirements. (a) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the city stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the County Health Department.
- (b) Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the city and the Henry County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the city and the Henry County Health Department.
- (c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the city and the Henry County Health Department. They shall be allowed to inspect the work at any stage of construction and the owner shall notify the city and the Henry County Health Department when the work is ready for final inspection, before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the city and the Henry County Health Department.
- (d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of Tennessee, the city, and the Henry County Health Department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.
- (e) 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 the public sewer becomes available, the building sewer, or the septic tank effluent line shall be connected to the public sewer within sixty (60) days of the date of availability and the private sewage disposal system should be cleaned of sludge and if no longer used as a part of the city's treatment system, filled with suitable material. (1989 Code, § 8-303)

18-204. Regulation of holding tank waste disposal.

(1) <u>Permit</u>. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreta

disposal system, unless such person, firm, association, or corporation obtains a permit from the city to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the city when the conditions of this chapter have been met and providing the city is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

- (2) <u>Fees</u>. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the city to be set as specified in § 18-209. Any such permit granted shall be for one fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted 3-inch permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.
- (3) <u>Designated disposal locations</u>. The city shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The city may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the operation of the POTW.
- (4) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the city. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the city. (1989 Code, § 8-304)

18-205. Application for domestic wastewater discharge and industrial wastewater discharge permits. (1) Application for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the city for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the city sewer shall not be made until the application is received and approved by the city, the building sewer is installed in accordance with § 18-201 of this chapter and an inspection has been performed by the mayor or his representative.

The receipt by the city of a prospective customer's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

- (2) <u>Industrial wastewater discharge permits</u>. (a) <u>General requirements</u>. All industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall acquire a permit within 180 days after the effective date of this chapter.
- (b) <u>Applications</u>. Applications for wastewater discharge permits shall be required as follows:
 - (i) Users required to obtain a wastewater discharge permit shall complete and file with the city, an application on a prescribed form accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least 60 days prior to connecting to or contributing to the POTW.
 - (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 number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-206(1) and (2) discharge variations -- daily, monthly, seasonal and 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 city.
 - (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 city for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. 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 O&M 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 paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by § 18-206 of 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 city will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the city that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the city, the city shall deny the application and notify the applicant in writing of such action.
- (c) <u>Permit conditions</u>. 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. Permits may contain the following:
 - (i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
 - (ii) Limits on the average and maximum rate and time of discharge or requirements and equalization;
 - (iii) Requirements for installation and maintenance of inspections and sampling facilities;
 - (iv) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;

- (v) Compliance schedules;
- (vi) Requirements for submission of technical reports or discharge reports;
- (vii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;
- (viii) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
 - (ix) Requirements for notification of slug discharged;
- (x) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.
- (d) Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the city within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by §§ 18-205(2)(b)(ii) and (iii). The terms and conditions of the permit may be subject to modification by the city 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 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (e) <u>Permit duration</u>. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit.
- (f) <u>Permit transfer</u>. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.
- (g) <u>Revocation of permit</u>. Any permit issued under the provisions of the 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 any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- (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) <u>Confidential information</u>. All information and data on a user obtained from reports, questionnaire, permit application, 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 city 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 city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless prior and adequate notification is given to the user. (1989 Code, § 8-305)

- 18-206. <u>Discharge regulations</u>. (1) <u>General discharge prohibitions</u>. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:
 - (a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of

discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

- (b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
- (c) 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 POTW.
- (d) 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 or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.
- (e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance, hazard to life, are sufficient to prevent entry into the sewers for maintenance and repair.
- (f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

- (g) Any substances which will cause the POTW to violate its NPDES permit or the receiving water quality standards.
- (h) 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.
- (i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the sewer system which exceeds 65°C (150°F) or causes the influent at the wastewater plant to exceed 40°C (104°F).
- (j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.
- (k) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.
- (l) Any waters containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the city in compliance with applicable state or federal regulations.
- (m) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (n) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two (32) or one hundred fifty (150) degrees F (0 and 65°C).
- (o) 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 city and the Tennessee Department of Health. Industrial cooling water or unpolluted process waters may be discharged on approval of the city and the Tennessee Department of Health, to a storm sewer or natural outlet.
- (2) <u>Restrictions on wastewater strength</u>. No person or user shall discharge wastewater which exceeds the following set of standards (Table A User Discharge Restrictions) unless an exception is permitted as provided in this chapter. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A - User Discharge Restrictions

Pollutant	Daily Average* Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l)
Antimony	5.0	8.0
Arsenic	1.0	1.5
Cadmium	1.0	1.5
Chromium (total)	4.0	7.0
Copper	3.0	5.0
Cyanide	1.0	2.0
Lead	1.0	1.5
Mercury	0.1	0.2
Nickel	3.0	4.5
Pesticides &		
Herbicides	BDL	1.0
Phenols	10.0	15.0
Selenium	1.0	1.5
Silver	1.0	1.5
Surfactants,		
as MBAS	25.0	50.0
Zinc	3.0	5.0

(3) Protection of treatment plant influent. The city shall monitor the treatment works influent for each parameter in the following table (Table B-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 POTW reaches or exceeds the levels established by this table, the city 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 pretreatment levels for these parameters. The city shall also recommend changes to any of these criteria in the event that: the POTW 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 POTW.

^{*}Based on 24-hour flow proportional composite samples. BDL = Below Detectable Limits

Table B-Plant Protection Criteria

Maximum Concentration

Parameter	(mg/l) (24 Hour Flow) Proportional Composite Sample	Maximum Instantaneous Concentration (mg/l) Grab Sample	
Aluminum			
dissolved (AL)	3.00	6.0	
Antimony (Sb)	0.50	1.0	
Arsenic (As)	0.06	0.12	
Barium (Ba)	2.50	5.0	
Boron	0.4	0.8	
Cadmium (Cd)	0.004	0.008	
Chromium Hex	0.06	0.12	
Cobalt	0.03	0.06	
Copper (Cu)	0.16	0.32	
Cyanide (CN)	0.03	0.06	
Fluoride (F)	0.6	1.2	
Iron (Fe)	3.0	6.0	
Lead (Pb)	0.10	0.2	
Manganese (Mn)	0.1	0.2	
Mercury (Hg)	0.025	0.05	
Nickel (Ni)	0.15	0.30	
Pesticides &			
Herbicides	.001	.002	
Phenols	1.00	2.0	
Selenium (Se)	0.01	0.02	
Silver (Ag)	0.05	0.1	
Sulfide	25.0	40.0	
Zinc (Zn)	0.3	0.6	
Total Kjeldahl			
Nitrogen (TKN)	45.00	90.00	
Oil & Grease	50.00	100.00	
MBAS	5.00	10.0	
BOD	220	350	
COD	440	700	
Suspended Solids	220	350	

- (4) <u>Federal categorical pretreatment standards</u>. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The city shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.
- (5) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the city from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW 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 Health and/or the United States Environmental Protection Agency.
 - (6) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this 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 city 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) <u>Notification of accidental discharge</u>. Any person causing or suffering from any accidental discharge shall immediately notify the mayor (or designated official) in person, by the telephone to enable countermeasures to be taken by the city to minimize damage to the POTW, 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 POTW, fish kills, or any other damage to

person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this 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. In lieu of placing notices on bulletin boards, the users may submit an approved SPIC. Each user shall annually certify to the city compliance with this paragraph. (1989 Code, § 8-306)

18-207. <u>Industrial user monitoring, inspection reports, records access, and safety</u>. (1) <u>Monitoring facilities</u>. 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 city.

When in the judgment of the city, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the city 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 city, 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 city 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) <u>Inspection and sampling</u>. The city shall 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 their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their 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. 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.

- (3) Compliance date report. Within 180 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the city a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a professional engineer registered to practice engineering in Tennessee.
 - (4) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the city during the months of June and December, unless required more frequently in the pretreatment standard or by the city, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and requirements.

In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the city and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the city may agree to alter the months during which the above reports are to be submitted.

- (b) The city may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) in this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.
- (c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where requested by the city of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed

in the wastewater discharge permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, and amendments thereto. Sampling shall be performed in accordance with techniques approved by the administrator.

- (5) <u>Maintenance of records</u>. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:
 - (a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;
 - (b) The dates analyses were performed;
 - (c) Who performed the analyses;
 - (d) The analytical techniques/methods used; and
 - (e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the city, Director of the Division of Water Quality Control, Tennessee Department of Health or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the city, the approval authority, or the Environmental Protection Agency.

- (6) <u>Safety</u>. While performing the necessary work on private properties, the mayor 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. (1989 Code, § 8-307)
- 18-208. Enforcement and abatement. (1) Issuance of cease and desist orders. When the city finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the city shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:
 - (a) Comply immediately;
 - (b) Comply in accordance with a time schedule set forth by the city;

- (c) Take appropriate remedial or preventive action in the event of a threatened violation; or
- (d) Surrender the applicable user's permit if ordered to do so after a show cause hearing.

Failure of the city to issue a cease and desist order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

- (2) <u>Submission of time schedule</u>. When the city finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations of pretreatment standards, or the provisions of a wastewater discharge permit, the city shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the city within 30 days of the issuance of the cease and desist order.
 - (3) Show cause hearing. (a) The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the board of mayor and aldermen why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the board of mayor and aldermen regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the board of mayor and aldermen why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.
 - (b) The board of mayor and aldermen may itself conduct the hearing and take the evidence, or the board of mayor and aldermen may appoint a person to:
 - (i) Issue in the name of the board of mayor and aldermen notice of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 - (ii) Take the evidence;
 - (iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board of mayor and aldermen for action thereon.
 - (c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of reproduction costs.

- (d) After the board of mayor and aldermen or the appointed persons have reviewed the evidence, it/they may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.
- (4) <u>Legal action</u>. If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate legal and/or equitable relief in a court of competent jurisdiction.
- (5) Emergency termination of service. The city may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

- (6) <u>Public nuisance</u>. Discharges or wastewater in any manner in violation of this chapter or of any order issued by the board of mayor and aldermen as authorized by this chapter is hereby declared a public nuisance and shall be corrected or abated as directed by the board of mayor and aldermen. Any person creating a public nuisance shall be subject to the provisions of the city code or ordinances governing such nuisance.
- (7) <u>Correction of violation and collection of costs</u>. In order to enforce the provisions of this chapter, the city shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating this chapter or the owner or tenant of the property upon which the violation occurs, and the city shall have such remedies for the collection of such costs as it has for the collection of sewer service charges.

- (8) <u>Damage to facilities</u>. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to facilities, the city shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge. (1989 Code, § 8-308)
- 18-209. <u>Fees and billing</u>. (1) <u>Purpose</u>. It is the purpose of this chapter to provide for the equitable recovery of costs from user's 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) <u>Types of charges and fees</u>. 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;
 - (e) Industrial wastewater discharge permit fees;
 - (f) Fees for industrial discharge monitoring; and
 - (g) Other fees as the city may deem necessary.
- (3) <u>Fees for application for discharge</u>. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-205 of this chapter.
- (4) <u>Inspection fee and tapping fee</u>. 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) <u>Sewer user charges</u>.¹ 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) <u>Industrial wastewater discharge permit fees</u>. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-205 of this chapter.
- (7) Fees for industrial discharge monitoring. Fees may be collected from industrial user's having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program. (1989 Code, § 8-309)

¹Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

CHAPTER 3

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-301. Objectives.
- 18-302. Definitions.
- 18-303. Compliance with Tennessee Code Annotated.
- 18-304. Regulated.
- 18-305. Permit required.
- 18-306. New installations.
- 18-307. Existing installations.
- 18-308. Inspections.
- 18-309. Right of entry for inspections.
- 18-310. Correction of violations.
- 18-311. Required devices.
- 18-312. Non-potable supplies.
- 18-313. Statement required.
- 18-314. Penalty; discontinuance of water supply.
- 18-315. Provision applicable.

18-301. Objectives. The objectives of this chapter are:

- (1) To protect the public potable water system of City of Puryear Water System from the possibility of contamination or pollution by isolating within the customer's internal distribution system such contaminants or pollutants that could backflow or backsiphon 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;
- (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. (1989 Code, § 8-401, as replaced by Ord. #64-11, Aug. 2011)
- **18-302.** <u>Definitions</u>. 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" shall mean a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

¹Municipal code references

approved air-gap separation shall be at least twice the inside diameter of the water supply line, but in no case less than six inches (6"). 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 six inches (6").

- (2) "Atmospheric vacuum breaker" shall mean 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" shall mean 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" shall mean the undesirable reversal of the intended direction of flow in a potable water distribution system as a result of a cross connection.
- (5) "Backpressure" shall mean 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" shall mean 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" shall mean 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" shall mean 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 valve assembly" shall mean 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.
- (10) "Double check detector assembly" shall mean 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.

(11) "Fire protection systems" shall be classified in six (6) different classes in accordance with <u>AWWA Manual M14 - Second Edition 1990</u>. The six (6) classes are as follows:

<u>Class 1</u> 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.

<u>Class 2</u> shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

<u>Class 3</u> 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).

<u>Class 4</u> 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.

<u>Class 5</u> 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.

<u>Class 6</u> 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" shall mean 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" shall mean the Manager of the City of Puryear Water System or his duly authorized deputy, agent or representative.
- (14) "Person" shall mean 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" shall mean 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" shall mean 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" shall mean the City of Puryear Water System, 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" shall mean 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" 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. (1989 Code, § 8-402, as replaced by Ord. #64-11, Aug. 2011)
- 18-303. Compliance with Tennessee Code Annotated. The City of Puryear Water System 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. The City of Puryear Water System 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. (1989 Code, § 8-403, as replaced by Ord. #64-11, Aug. 2011)
- 18-304. Regulated. (1) No water service connection to any premises shall be installed or maintained by the City of Puryear Water System 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 City of Puryear Water System 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 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 of the City of Puryear Water System.
- (3) If, in the judgment of the manager 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 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 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 City of Puryear Water System shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this chapter. (1989 Code, § 8-404, as replaced by Ord. #64-11, Aug. 2011)
- **18-305.** <u>Permit required</u>. (1989 Code, § 8-405, as replaced by Ord. #64-11, Aug. 2011)
- 18-306. <u>New installations</u>. 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 the City of Puryear Water System for approval. (1989 Code, § 8-406, as replaced by Ord. #64-11, Aug. 2011)
- 18-307. 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 the City of Puryear Water System. (1989 Code, § 8-407, as replaced by Ord. #64-11, Aug. 2011)

- 18-308. <u>Inspections</u>. The manager 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 the City of Puryear Water System in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation. (1989 Code, § 8-408, as replaced by Ord. #64-11, Aug. 2011)
- 18-309. Right of entry for inspections. The manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the City of Puryear Water System 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. (1989 Code, § 8-409, as replaced by Ord. #64-11, Aug. 2011)
- 18-310. <u>Correction of violations</u>. (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 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, the City of Puryear Water System 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, 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 <u>Tennessee Code Annotated</u>, § 68-221-711, within the time limits established by the manager or his representative, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the manager 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, warrants disconnection prior to a due process hearing. (1989 Code, § 8-410, as replaced by Ord. #64-11, Aug. 2011)

- **18-311.** 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 the City of Puryear Water System 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 premise 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;
 - (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 the City of Puryear Water System, as to manufacture, model, size and application. The method of installation of backflow prevention devices shall be approved by the City of Puryear Water System 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. 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.

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:

- (a) High risk high hazards:
 - (i) Mortuaries, morgues, autopsy facilities;
- (ii) Hospitals, medical buildings, animal hospitals and control centers, doctor and dental offices;
- (iii) Sewage treatment facilities, water treatment, sewage and water treatment pump stations;
- (iv) Premises with auxiliary water supplies or industrial piping systems;
- (v) Chemical plants (manufacturing, processing, compounding, or treatment);
- (vi) Laboratories (industrial, commercial, medical research, school);
 - (vii) Packing and rendering houses;
 - (viii) Manufacturing plants;
 - (ix) Food and beverage processing plants;
 - (x) Automated car wash facilities;
 - (xi) Extermination companies;
 - (xii) Airports, railroads, bus terminals, piers, boat docks;
- (xiii) Bulk distributors and users of pesticides, herbicides, liquid fertilizer, etc.;
 - (xiv) Metal plating, pickling, and anodizing operations;
 - (xv) Greenhouses and nurseries;
 - (xvi) Commercial laundries and dry cleaners;
 - (xvii) Film laboratories;
 - (xviii) Petroleum processes and storage plants;
 - (xix) Restricted establishments;
 - (xx) Schools and educational facilities;
 - (xxi) Animal feedlots, chicken houses, and CAFOs;
 - (xxii) Taxidermy facilities;
- (xxiii) Establishments which handle, process, or have extremely toxic or large amounts of toxic chemicals or use water of unknown or unsafe quality extensively.
- (b) 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 City of Puryear Water System 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;
 - (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 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 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) <u>Installation criteria</u>. 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 the City of Puryear Water System 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 the City of Puryear Water System, 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 shalt 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, therefore 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 the City of Puryear Water System. 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 inches (2"), the enclosure shall be completely removable. Access for backflow prevention devices two and one-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 $^{\circ}$ F) with an outside temperature of negative thirty degrees Fahrenheit (-30 $^{\circ}$ 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, the City of Puryear Water System 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, the City of Puryear Water System may require the installation of a duplicate device.
- (p) The City of Puryear Water System 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 the City of Puryear Water System. Expense of such repairs shall be borne by the owner or 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 a 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 the City of Puryear Water System.

- (7) <u>Testing of devices</u>. Each customer that owns a device is responsible to have the device tested annually. The customer is responsible for the expense of testing. 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 will be provided to the City of Puryear Water System and kept on file with the City of Puryear Water System. (as added by Ord. #64-11, Aug. 2011)
- 18-312. <u>Non-potable supplies</u>. 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 Occupational Safety and Health Act (OSHA) guidelines, shall be required in locations where in the judgment of the City of Puryear Water System, such coding is necessary to identify and protect the potable water supply. (as added by Ord. #64-11, Aug. 2011)

- 18-313. Statement required. Any person whose premises are 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 the City of Puryear Water System 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. (as added by Ord. #64-11, Aug. 2011)
- 18-314. Penalty; discontinuance of water supply. (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 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. (as added by Ord. #64-11, Aug. 2011)
- 18-315. <u>Provision applicable</u>. The requirements contained in this chapter shall apply to all premises served by the City of Puryear Water System and are hereby made part of the conditions required to be met for the City of Puryear Water System 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 this chapter is entitled to a due process hearing upon timely request. (as added by Ord. #64-11, Aug. 2011)

CHAPTER 4

USER CHARGE SYSTEM

SECTION

- 18-401. Introduction.
- 18-402. Proposed user charge system.
- 18-403. User charge rate structure.
- 18-404. Surcharge for high strength wastes.
- 18-405. Summary.

18-401. <u>Introduction</u>. The City of Puryear, Tennessee, has undertaken the task of upgrading their sewage treatment facilities to provide adequate service for the city and to meet water quality requirements as outlined by PL92-500. The project was financed by two grants, one from the State of Tennessee and the other from the Tennessee Department of Economic and Community Development. The remainder of the cost will be paid by the city.

The cost of labor, chemicals, plant maintenance and equipment replacement shall be borne by the city. This money must be raised through a user charge system which distributes the cost of operation, maintenance and replacement among all the users in proportion to their waste loads.

The user charge system should be structured to insure that the following criteria are met:

- (1) Costs should be fairly proportioned among all users according to waste load and flow characteristics:
- (2) The system should produce enough annual revenue to offset all annual costs:
- (3) The system should comply with all local, state and federal laws, and be accepted by all local, state and federal authorities.

The following user charge system should adequately meet all of these requirements. (Ord. #9-89, Sept. 1989)

18-402. <u>Proposed user charge system</u>. Users of the Puryear wastewater collection and treatment system presently discharge only domestic waste. However, provisions should be made in the user charge system for the possibility of future industrial and/or commercial waste of higher strength. Accordingly, the user charge system will be based on a fee for average daily flows with a surcharge for wastes with a strength greater than domestic. This system is described in Appendix B of 40 CFR Part 35 and is presented hereinafter.

(1) Class I - Generally describes residential users.

$$Cu = \frac{Ct}{Vt}(Vu) \qquad \qquad Cd = \frac{Cdt}{N}$$

Total charge = Cu + Cd

(2) Class II - Generally describes industrial users.

$$C_S = [B_C(B) + S_C(S) + P_C(P)] V_U$$

Cd = Charge to user for recovery of debt service.

Cdt = Total debt service charge per year.

Cu = Charge to user per unit time.

Ct = Total O & M costs per unit time.

Vt = Total volume of waste per unit time.

Vu = Volume contributed by a user per unit time.

N = Total number of sewer customers.

Cs = Surcharge for excessive strength wastewater.

Bc = O & M cost for treatment of a unit of BOD.

Sc = O & M cost for treatment of a unit of SS.

Pc = O & M cost for treatment of a unit of any pollutant.

B = Concentration of BOD from a user above a base level.

S = Concentration of SS from a user above a base level.

P = Concentration of any pollutant from a user above a base level.

Users discharging only sanitary waste will be charged in accordance with the Class I model while those discharging higher strength wastes will be charged in accordance with the Class I model plus the Class II model as a surcharge.

Values for pollutants discharged by individual users will be determined by the manner described in the Puryear Sewer Use Ordinance. (See Chapter 2 of this title.)

Operation, maintenance, and depreciation costs are estimated for the first year of operation in order to determine the initial user charge. The user charge system will undergo a biennial review to reflect actual O & M costs associated with wastewater treatment.

Operational expenses for the sewer system will be published with the users' bill on an annual basis in order to inform the users of how collected fees are allocated.

Operation, maintenance, depreciation, and debt service costs are shown on Table 1. Water usage is shown in Table 2. This data is used to calculate average annual usage and the associated costs of the user charge system.

TABLE 1

Operation, Maintenance, Depreciation and Debt Retirement Cost

(1) Operation, Maintenance, and Depreciation cost

Labor	12,000
Utilities	3,200
Materials	1,500
Administration	2,750
Outside Services	1,500
Depreciation	15,600
Miscellaneous Expenses	1,000

\$37,550/year

(2) <u>Debt Service Retirement</u> \$ 7,500/year

\$ 7,500

TOTAL ANNUAL COST TO BE RECOVERED \$ 45,050

TABLE 2

Water Use in Puryear, Tennessee Sewered Customers

Average No. of	Total Gallons
Customers Per Month	Sold Per Year
286	16,033,400

(Ord. #9-89, Sept. 1989)

18-403. User charge rate structure.

(1)	Debt service retirement	\$ 7,500/year
(2)	Debt service retirement	
	(\$7,500 divided by 286 divided by 12)	\$ 2.19/cust/month

(3) Depreciation operation and maintenance cost \$37,550/yr

(4) Gallons per year treated 16,033,400 gallons

(5) Cost per 100 gallons treated per year (\$/1000 gallons) \$2.34/1000 gallons

(Ord. #9-89, Sept. 1989)

18-404. <u>Surcharge for high strength wastes</u>. At such time that a user discharges a higher strength waste than average sewage and equitable surcharge will be levied based upon costs of chemicals, time and maintenance required to treat the extra component of waste. (Ord. #9-89, Sept. 1989)

18-405. <u>Summary</u>. A summary of the proposed rate structure developed in § 18-403 is presented in Table 3.

 $\frac{\text{TABLE 3}}{\text{User Charge Monthly Bill - Inside City Limits}}$

<u>Usage</u>	Debt Service Cost per month per customer	Depreciation O & M Cost per month per customer	Total Cost per customer per month
First 2,000 gals.	\$2.19	\$4.68	\$6.87 Min. Bill
All over 2,000	- 0 -	\$2.34/1,000 gals.	\$2.34/1,000 gals.

User Charge Monthly Bill - Outside City Limits

<u>Usage</u>	Debt Service Cost per month per customer	Depreciation O & M Cost per month per customer	Total Cost per customer per month
First 2,000 gals.	\$3.29	\$7.02	\$10.31 Min. Bill
All over 2,000	- 0 -	\$3.51/1,000 gals.	\$3.51/1,000 gals.

(Ord. #9-89, Sept. 1989)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

- 1. ELECTRICITY.
- 2. GAS.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished by the Paris Board of Public Utilities.

19-101. <u>To be furnished by the Paris Board of Public Utilities</u>. Electricity shall be provided by the Paris Board of Public Utilities.¹ The rights, powers, duties, and obligations of the city and its inhabitants, are stated in the agreements between the parties. (1989 Code, § 13-201)

¹The agreements are of record in the office of the city recorder.

CHAPTER 2

GAS

SECTION

19-201. To be furnished by Paris - Henry County Utility District.

19-201. <u>To be furnished by Paris - Henry County Utility District</u>. Natural gas shall be furnished by the Paris - Henry County Utility District. The rights, powers, duties, and obligations of the city and the district shall be as stated in the agreement between the parties.¹ (1989 Code, § 13-301)

¹The agreements are of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

[RESERVED FOR FUTURE USE]

ORDINANCE NO. 26-98

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF PURYEAR TENNESSEE.

WHEREAS some of the ordinances of the City of Puryear are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the City of Puryear, 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 "Puryear Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF PURYEAR, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Puryear Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the

portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

<u>Section 4. Continuation of existing provisions</u>. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."1

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

<u>Section 8. Construction of conflicting provisions</u>. 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.

<u>Section 10</u>. <u>Date of effect</u>. 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, April 6, , 1998.

PASSED 2nd Reading April 6, , 1998.

Frank Malliman

Mayor

Very Smith

Recorder

MALDERMAN

ALDERMAN

ALDERMAN

ALDERMAN

ALDERMAN

ALDERMAN