

**THE
SHELBYVILLE
MUNICIPAL
CODE**

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

May, 1992

Change 11, April 9, 2015

City of Shelbyville, Tennessee

Mayor

Wallace Cartwright

Councilmen

William Christie

Henry Feldhaus

Thomas Landers

Sam Meek

Jean Pruitt

Kay Rose

City Manager

James Jay Johnson

City Recorder

Shanna Boyette

City Attorney

Ginger Shoffner

Preface

This code is the result of a comprehensive codification and revision of the ordinances of the City of Shelbyville, Tennessee. By referring to the historical citation appearing at the end of each section, the user will be able to ascertain the old code section or ordinance from which the particular section has been revised. The absence of a historical citation means that the section was added at the time this code was prepared. The word "modified" in the historical citation indicates substantial modification of the cited code section or ordinance.

The attention of the user is directed to the arrangement of the code into titles, chapters, and sections, which follows that used in the Tennessee Code Annotated. 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 number is the title number followed by a hyphen, then the chapter number with the last two numbers showing the section number within the chapter, so that, for example, title 10, chapter 2, section 6, is designated as section 10-206.

By utilizing the thumb tabs and the analysis preceding each title and chapter of the code, together with the cross references and explanations included as footnotes, the user should readily find all provisions in the code relating to any question which might arise.

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 for the code).

(2) That one copy of every ordinance adopted by the city is furnished to MTAS after its adoption (see section 8 of the adopting ordinance).

(3) That the city agrees to reimburse MTAS for the actual cost 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 or amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date. If this very simple procedure is followed the code will be kept up to date in a way that will serve fully the needs of the city's officials and citizens. If any questions or problems arise concerning the updating procedure, an MTAS Ordinance Codification Consultant is available to the city for advice and assistance.

The able assistance of Mrs. Tracy G. Gardner, the MTAS Sr. Word Processing Specialist who did all the typing on this project, is gratefully acknowledged.

Randy Williams
Senior Management Consultant

Leslie Shechter
Legal Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

The ordinance adoption procedures for the City of Shelbyville are set out as follows precisely as they appear in the charter:

ARTICLE IV--ORDINANCES

Form

Section 1. Be it further enacted, That all ordinances adopted by the City Council shall begin: "BE IT ORDAINED BY THE CITY OF SHELBYVILLE."

Sec. 2. Be it further enacted, That all ordinances shall be read in open session before the Council on three different days before passage, and any ordinance not so read shall be null and void.

Passage Become Effectual, When

Sec. 3. Be it further enacted, That no ordinance shall take effect until the lapse of fifteen (15) days after its passage on third and final reading, except that the same be enacted as an emergency ordinance and expressly contain the statement that an emergency exists, specifically containing recitals of the circumstances and reasons for the existence of an emergency.

Amendments

Sec. 4. Be it further enacted, That all amendments to existing ordinances shall be in the form of a new ordinance, and adoption of such amendments shall be had in the same manner as a new ordinance.

Publication

Sec. 5. Be it further enacted, That the Council may by resolution direct that any ordinance pending before the Council, or under consideration by it, be published in some newspaper circulated within the City, before taking final action thereon, and may in like manner direct the publication of any ordinance after its passage on third and final reading.

Journal Record

Sec. 6. Be it further enacted, That after the passage on third and final reading, all ordinances shall be designated by number, recorded in an Ordinance Book, filed and preserved in the City Hall, which shall at all times be open for inspection by the public. In all cases under the preceding Sections, the vote of each member of the Council shall be determined by ayes and nays, and the names of each member voting for or against an ordinance shall be entered or record on the Journal of the meeting.

Code of Ordinances

Sec. 7. Be it further enacted, That the City Council is hereby expressly empowered to enact a Code of Ordinances, in which may be embraced ordinances of administrative, legislative or penal nature, including any and all ordinances necessary or proper to fully exercise the powers and duties, conferred or imposed by the provisions of this Charter.

TITLE 1

ADMINISTRATION, OFFICERS AND PERSONNEL¹

CHAPTER

1. CITY COUNCIL.
2. PERSONNEL RULES AND REGULATIONS.
3. [DELETED.]
4. SOCIAL SECURITY--CITY PERSONNEL.
5. CITY MANAGER AND RECORDER.
6. CITY TREASURER.
7. POLICE AND ARREST.
8. WORKHOUSE.
9. SHELBYVILLE AIRPORT AUTHORITY.
10. PARK AND RECREATION ADVISORY BOARD.
11. PARKS AND RECREATIONAL DEPARTMENT.
12. WARDS.
13. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
14. PURCHASING DEPARTMENT--PURCHASING PROCEDURES.
15. TRAVEL REIMBURSEMENT REGULATIONS.
16. CODE OF ETHICS.

CHAPTER 1

CITY COUNCIL²

SECTION

1-101. Regular council meetings.

1-101. Regular council meetings. (a) Notice to the public for any meeting of the regular or called or study session and or any meeting being the subject

¹For other provisions relating to administration, officers and personnel, see the city's charter and/or the appropriate related title in this code. For example, for provisions relating to the building, plumbing, electrical, and gas inspectors, see title 4; for provisions relating to the fire department, see title 7 for provisions relating to the administration and control of utilities see title 13.

For provisions relating to elections, see the charter, particularly articles II and III.

For provisions relating to the city court, see article VIII.

For provisions relating to the city attorney, see article IX.

²See also the charter, particularly article III.

matter of Tennessee Code Annotated sections 8-44-101, et seq. and in compliance with Tennessee Code Annotated section 8-44-102 and 8-44-105, shall be published in a newspaper of general circulation in the City of Shelbyville, on such date as is calculated to give twenty-four (24) hours notice prior to any such meeting. Said notice shall be given also to any radio station(s) prior to 3:00 P.M. twenty-four (24) hours prior to the scheduled time of any meeting set forth in this section. In the event there is no newspaper of general circulation in the City of Shelbyville, a dated and timed public notice may be posted in lieu hereof at the Bedford County Court House, and City Hall of the City of Shelbyville and any other place which has a public notice facility in a conspicuous place twenty-four (24) hours prior to said meeting.

(b) The regular meetings of the city council shall be held at the city hall in Shelbyville at 6:00 P.M. on the second Thursday of each month. (Ords. No. 465 and 466, 1992, as amended by ords. No. 476, 479, and 507 (May 1994)

CHAPTER 2

PERSONNEL RULES AND REGULATIONS

SECTION

1-201. Adopted by reference.

1-202. [Deleted.]

1-203. [Deleted.]

1-204. [Deleted.]

1-205. [Deleted.]

1-206. [Deleted.]

1-207. [Deleted.]

1-201. Adopted by reference. Resolution No. 20-12 is adopted into this municipal code by reference as the city's personnel policies and procedures. The Shelbyville Personnel Policies and Procedures is available for review in the city recorder's office. (1979 Code, § 1-201, as replaced by Ord. #503, §§ 1 and 3, Dec. 1993, Ord. #630, Dec. 1999, and Ord. #914, Jan. 2013)

1-202. [Deleted.] (1979 Code, § 1-202, as replaced by Ord. #503, §§ 1 and 3, Dec. 1993, and Ord. #630, Dec. 1999, and deleted by Ord. #914, Jan. 2013)

1-203. [Deleted.] (1979 Code, § 1-203, as replaced by Ord. #503, §§ 1 and 3, Dec. 1993, and Ord. #630, Dec. 1999, and deleted by Ord. #914, Jan. 2013)

1-204. [Deleted.] (1979 Code, § 1-204, as replaced by Ord. #503, §§ 1 and 3, Dec. 1993, and Ord. #630, Dec. 1999, and deleted by Ord. #914, Jan. 2013)

1-205. [Deleted.] (1979 Code, § 1-205, as replaced by Ord. #503, §§ 1 and 3, Dec. 1993, and Ord. #630, Dec. 1999, and deleted by Ord. #914, Jan. 2013)

1-206. [Deleted.] (1979 Code, § 1-206, as replaced by Ord. #503, §§ 1 and 3, Dec. 1993, and Ord. #630, Dec. 1999, and deleted by Ord. #914, Jan. 2013)

1-207. [Deleted.] (1979 Code, § 1-207, as replaced by Ord. #503, §§ 1 and 3, Dec. 1993, and Ord. #630, Dec. 1999, and deleted by Ord. #914, Jan. 2013)

CHAPTER 3

[DELETED]

[This chapter was deleted by Ord. #503, sec. 2, Dec. 1993.]

CHAPTER 4

SOCIAL SECURITY--CITY PERSONNEL

SECTION

- 1-401. Policy and purpose as to coverage.
- 1-402. Necessary agreements to be executed.
- 1-403. Withholdings from salaries or wages.
- 1-404. Appropriations for employer's contributions.
- 1-405. Records and reports to be made.
- 1-406. Exclusions.

1-401. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the city to extend to the employees and officials thereof, not excluded by law or ordinance of the city, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old Age and Survivors' Insurance as authorized by the Federal Social Security Act and amendments thereto. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state or federal laws or regulations. (1979 code, § 1-401)

1-402. Necessary agreements to be executed.¹ The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section of this chapter. (1979 code, § 1-402)

1-403. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose of complying with the federal act are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and

¹By ordinance No. 251, section 2, the mayor "is hereby directed... to amend the agreement between the State Old Age and Survivors Insurance Agency so as to extend the System of Federal Old Age and Survivors Insurance to include services of elective legislative officials effective January 1, 1970, it being the purpose of this section to authorize social security coverage for all employees and officials of said city except those excluded by federal or state laws or regulations."

See Ordinance No. 526 (June 1995) of record in the office of the recorder for amendments to the Social Security Agreement by and between the City of Shelbyville, Tennessee, and the state Old Age Survivors Insurance Agency concerning election officials/workers.

shall be paid over to the state or federal agency designated by said laws or regulations. (1979 code, § 1-403)

1-404. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1979 code, § 1-404)

1-405. Records and reports to be made. The city shall keep such records and make such reports as may be required by applicable state and federal laws and regulations. (1979 code, § 1-405)

1-406. Exclusions. Effective October 1, 1951, there is hereby excluded from this chapter any authority to make any agreement with respect to services of any employee or official not authorized to be covered by applicable federal or state laws or regulations. (1979 code, § 1-406)

CHAPTER 5

CITY MANAGER AND RECORDER¹

SECTION

1-501. City recorder; bond.

1-502. City manager; bond.

1-503. Guidelines for access to or reproduction of public records and schedule of charges for reproduction of public records.

1-504. Expenditures.

1-501. City recorder; bond. (1) The recorder shall perform all administrative duties for the city, as provided by the charter, this code or the city council which are not expressly assigned to another corporate officer.

(2) The recorder shall, before entering upon his or her duties, execute a fidelity bond in an amount consistent with the City of Shelbyville Charter with surety company authorized to do business in the State of Tennessee as surety. The cost of this bond shall be paid by the City of Shelbyville. (1979 code, § 1-501, as replaced by Ord. #571, § 1, Aug. 1997)

1-502. (1) The city manager shall possess all powers and qualifications, and all duties imposed on him or her by the charter or by ordinance.

(2) The city manager shall, before entering upon the duties of his or her office, execute a fidelity bond in an amount consistent with the City of Shelbyville Charter with a surety company authorized to do business in the State of Tennessee as surety. The cost of this bond shall be paid by the City of Shelbyville. (1979 code, § 1-502, as replaced by Ord. #571, § 1, Aug. 1997)

1-503. Guidelines for access to or reproduction of public records and schedule of charges for reproduction of public records. The Shelbyville City Recorder is the official records custodian for the City of Shelbyville as established by Article X of the Charter of the City of Shelbyville. All requests for inspection of or reproduction of public records other than those specifically set out in the charter or code of ordinances must be directed to the city recorder. All requests for inspection and/or copying of public records must be made by a citizen in writing and must be made on the form developed by the office of open records counsel "inspection/duplication of records request. All citizens requesting to view a public record or to obtain a copy of a public record may be

¹See also the charter, particularly articles VI, VII, VIII (2), and X.

See also title 6 in this code.

required to produce a photo identification issued by a governmental agency. The records custodian has up to seven (7) business days to determine whether the city can retrieve the records requested, whether the records are confidential or contain confidential information, and the estimated charge for reproducing the records. The records custodian shall within seven days produce the records requested, deny the records in writing, or provide in writing to the requestor the estimated time frame for production and the estimated charges for the duplication costs.

All requirements and charges included herein are as developed and recommended by the office of open records council, and established by the Tennessee Public Records Act and included in Tennessee Code Annotated, § 10-7-503, et seq.

(1) Definitions. (a) "Citizen/requestor" a resident citizen of the State of Tennessee. (Requests may be made by out-of-state attorneys upon proof by evidence that the request is made on behalf of their client who is a lawful resident of the State of Tennessee.)

(b) "Labor costs" are defined as time reasonably necessary to produce the requested records and includes the time spent researching, locating, retrieving, reviewing, redacting and reproducing the records.

(c) "Labor threshold" is defined as the labor of the employee(s) reasonably necessary to produce requested material for the first hour incurred by the records custodian in producing the material. No charge for the first hour required to produce the requested records.

(d) "Manner of request." All requests must be in writing on the required form. The request must describe the records sought with specificity to prevent disruptions of work, essential functions and duties of the employees of the City of Shelbyville.

(e) "Payment for requested records" shall be made prior to the production of the copies of the requested records based upon charges estimated by the records custodian within seven (7) days of the request. Full payment shall be made prior to the release of any records.

(f) "Public record" all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material made or received pursuant to law or ordinance or in connection with a transaction of official business by any governmental agency. Reference is here made to Tennessee Code Annotated, § 10-7-504. Confidential records--Exceptions (amended 2013) as a guideline to those records not open to public inspection or to certain information contained in the record which must be removed or redacted prior to inspection.

(2) Inspection of public records. Consistent with the Public Records Act of Tennessee, personnel of the City of Shelbyville shall provide full access and assistance in an efficient manner to Tennessee residents who request access to

public documents. Citizens may request to view a public record, not specifically exempt from disclosure, at no charge during the regular business hours of the Shelbyville City Hall. All inspections of records must be performed under the supervision of the records custodian or designee.

(3) Copies; standard sizes.

Black & White (8 1/2 x 11 or 8 1/2 x 14) documents	\$.15 per page
Color (8 1/2 x 11 or 8 1/2 x 14) documents	\$.50 per page
Certified copies	\$.50 per page
Accident reports (8 1/2 x 11 or 8 1/2 x 14)	\$.15 per page

Maps, plats, electronic data, audio discs, video discs and all other materials shall be duplicated at actual costs to the city

(Duplex copies shall be equivalent to two (2) separate pages)

In the event, actual costs of the records custodian are higher than those reflected above or if the requested records are being reproduced on a medium other than standard size paper, the records custodian will compute the actual costs of the reproduction and inform the requestor prior to the charges being incurred. All copying of records must be performed by employees of the city by an outside vendor designated by the records custodian.

(4) Large copies. The terms and conditions of Tennessee Code Annotated, § 10-7-506(c) are included herein by reference as fully and completely as though copied herein verbatim. The charge shall be two dollars (\$2.00) per square foot for copies of documents in sizes other than 8 1/2 x 11 or 8 1/2 x 14 such as maps, plats, or other large format documents. (Paper cost approximately \$.21/sq. ft.; ink-\$.75- \$1.00/ sq. ft.; plotter/GIS system-\$.80 \$1.00/sq. ft.)

(5) Labor costs. After the first hour, the cost of the employee's salary/wages for time spent producing the records will be charged. If participation by more than one employee is required to produce the requested records, the requestor shall not be invoiced for first hour of the highest paid employee. Requests for copies of records may not be broken down to multiple requests for the same information in order to qualify for the first free hour.

(6) Delivery of copies. Delivery of copies of records to a requestor is anticipated to be by hand delivery when the requestor returns to the custodian's office to retrieve the requested records. If the requestor chooses not to return to the custodian's office to retrieve the copies, the records custodian may deliver the copies through the United States Postal Service and the cost incurred in delivering the copies shall be assessed in addition to any other charge. Additionally, the costs of packing materials and necessary media required shall be added to the total charges.

(7) Outside vendor. If the records custodian utilizes an outside vendor to produce copies of requested records because the custodian is legitimately

unable to produce the copies in the office, the costs assessed by the vendor to the city shall be paid by the requestor in addition to any other allowable charges.

(8) CD-ROM. Reproduction of an existing CD-ROM shall be three dollars (\$3.00). (This does not apply to uploading information onto a CD-ROM.)

(9) DVD. Reproduction of an existing DVD shall be five dollars (\$5.00). (This does not apply to uploading information to a DVD.)

(10) Safe harbor policy. The safe harbor policy established by the office of open records counsel is adopted herein by reference as fully and completely as though copied herein verbatim. The City of Shelbyville is committed to adhering to the schedule of reasonable charges and the policy for frequent and multiple request as established by the office of open records counsel. This policy is reviewed annually by the OORC.

(a) Waiver of fees established. The records custodian is not required to impose charges for copies or duplications of public records. The City of Shelbyville shall waive fees for a single request totaling less than one dollar (\$1.00).

(b) Frequent requestor. When the total number of requests made by a requestor during a calendar month exceeds four (4), the requestor shall be charged a fee for all labor that is reasonable necessary to produce copies of the requested records. The requestor shall not be entitled to one (1) free hour of labor, and the requestor shall be notified accordingly.

(11) Aggregation policy for charges by multiple requestors. The records custodian may aggregate the total number of public records requests made by a requestor and by any other individual, if the records custodian reasonably believes the requestor to be acting in concert with or as the agent of another person, entity or organization. The records custodian must inform the requestors of the determination to aggregate and that they have the right to appeal the decision to aggregate to the office of open records counsel. The records custodian will file a notice of aggregation of multiple requesters with the office of open records counsel.

(12) Police department personnel records. The police chief shall maintain in his office records of undercover investigators containing personally identifying information. All other personnel records of the police department shall be maintained in the office of the records custodian. Requests for personnel records, other than for undercover investigators, shall be made to the records custodian, who shall promptly notify the police chief of such request. The police chief shall make the final determination as to the release the information requested. In the event that the police chief refuses to release the information, he shall provide a written explanation of his reasons for not releasing the information.

(13) Frail records. If the public records requested are frail due to age or other conditions, and copying of the records will cause damage to the original

records, the requesting party may be required to make an appointment for inspection.

(14) Best practices guidelines for records custodians responding to requests for public records. The City of Shelbyville conforms to the Tennessee Public Records Act. The records custodian utilizes the standards and guidelines set out in the "Best Practices Guidelines for Records Custodians Responding to Requests for Public Records" developed by the office of open records council in conjunction with the advisory committee on open government. A copy of these guidelines is available on the city's website at www.shelbyvilletn.org.

(15) Forms. Inspection/duplication of records request form shall be used to make a request to inspect or for copies of public records. The form and instructions are available at the office of the city recorder, 201 N. Spring Street, Shelbyville, Tennessee, or available at the city's website at www.shelbyvilletn.org. (1979 code, § 1-503, as replaced by Ord. #2014-938, May 2014)

1-504. Expenditures.¹ (1) The city manager is authorized to make purchases on behalf of the city, in an amount not to exceed \$2,500.00, without requiring competitive bids thereon, and the city manager together, with the city treasurer, are authorized to expend a sum of money, not to exceed \$1,200.00 for the payment of any lawful account owed by the city, without the specific authority of the city council of the City of Shelbyville.

(2) That the city manager and the city treasurer are authorized to pay any account payable in the amount of \$250.00 upon receipt of invoice or upon satisfaction that the invoice is proper without the prior approval of the city council.

(3) Said accounts payable so paid prior to the regular sessions of the city council shall be listed specially in the treasurer's report to the council. (As added by ord. No. 303; amended by ords. No 437, 467, 475 and 516 (Oct. 1994)

¹See also this title, chapter 14 for reference to an ordinance establishing a purchasing department for the City of Shelbyville and procedures pertaining thereto.

CHAPTER 6

CITY TREASURER¹

SECTION

1-601. Bond.

1-601. Bond. Before entering upon the discharge of his duties the city treasurer shall enter into a bond in the penal sum of fifty thousand dollars (\$50,000.00) with approved corporate surety, in such form as approved by the council and city attorney. The bond shall be conditioned upon the faithful performance and discharge of his duties as city treasurer and shall indemnify the city against all loss or damage by reason of his failure to do so. The expense of such bond shall be borne by the city. (1979 code, § 1-601 as amended by ord. No. 408)

¹See also the charter, particularly articles VI and XI.

See also title 6 in this code.

See also this title chapter 14 for reference to an ordinance establishing a purchasing department for the City of Shelbyville and procedures pertaining thereto.

CHAPTER 7

POLICE¹ AND ARREST²

SECTION

- 1-701. Creation, duties, etc., of division of police.
- 1-702. Bonds of policemen.
- 1-703. Duties of the chief.
- 1-704. Authority of policemen to summon aid.
- 1-705. When policemen to issue receipts; disposition of fees.
- 1-706. Police uniforms and deportment.
- 1-707. Arrests.
- 1-708. Authority of policemen to summons witnesses.
- 1-709. Disposition of persons arrested, continuances, etc.
- 1-710. Bureau of identification.
- 1-711. Disciplinary action against policemen.
- 1-712. Police personnel policies.
- 1-713. Disposition of weapons found on persons arrested.

1-701. Creation, duties, etc., of division of police. There is hereby created a division of police which shall be under the direct supervision of a chief of police to be appointed by the city manager. It shall be the duty of this division to preserve order in the city; to protect the inhabitants and property owners therein from violence, crime, and all criminal acts; to prevent the commission of crime and violations of law and city ordinances; to perform a general police duty; to execute and return all process, notices, and orders of the mayor, city manager, city attorney, recorder, and city judge; and to execute and return such other processes, notices, and orders, as the charter or ordinances of the city may provide.

The police force shall be comprised of the chief of police and such officers, patrolmen, and other employees as the city manager may determine. No person shall act as a special policeman or other special officer for any purposes whatsoever except upon authority of the chief of police, approved by the director of public safety. Such authority shall be exercised only under the direction of the chief of police and for a specified time only. (1979 code, § 1-701)

¹See also the charter, particularly articles XIII and XVI.

²For provisions relating to traffic citations, etc., see title 9, chapter 6, in this code.

1-702. Bonds of policemen. The chief of police shall give a bond in the penal sum of twenty-five hundred dollars (\$2,500.00) conditioned upon the faithful performance of his duties. Each policeman who handles funds of the city shall give a bond in the penal sum of five hundred dollars (\$500.00). All such bonds shall be approved as to their sufficiency by the city manager and as to their form by the city attorney. (1979 code, § 1-702)

1-703. Duties of the chief. The chief of police shall devote his entire time to the maintenance and preservation of the peace, order, and cleanliness of the city. He shall aid in the enforcement of special laws relating to the city and the ordinances thereof, and shall enforce all orders of the council relating to the business and duties of his division. In the event that a city workhouse is established by ordinance, he shall have general charge of said, workhouse and the prisoners therein. He shall keep an account of the duties performed by each member of the force; note all absentees from duty and the cause of the same; report all violations of the rules and regulations of the division of police to the city manager, together with the names of witnesses to the facts; assist in the investigation of any charges against police officers; and render a monthly report to the city manager showing in detail the workings of his division. (1979 code, § 1-703)

1-704. Authority of policemen to summon aid. The chief of police or any member of the police force is hereby empowered to call to his assistance as many inhabitants of the city as may be necessary to aid in making arrests or in preventing or quelling any riot, unlawful assembly, or breach of the peace. All persons so called shall be subject to the orders of the chief of police or any member of the police force on the duty for which they are called. It shall be unlawful for any person to refuse or fail to obey orders of any such policeman when so called. (1979 code, § 1-704)

1-705. When policemen to issue receipts; disposition of fees. It shall be the duty of the chief of police and of every policeman to obtain, from the city manager, and use a book containing receipts printed in duplicate and numbered by the printer, and to issue one of these receipts to each person from whom money or valuables are received by such officer. These receipts shall be written in ink or by indelible pencil or ball point pen and a legible carbon copy retained by the officer in his book. The receipt shall show whether it is for funds which are deposited as a cash bond, or to apply on a fine, or to cover valuables removed from persons confined in the city prison. The carbon copy thereof shall be presented to the city judge on the morning of the day or night following the receipt of such funds or valuables, together with such funds or valuables, and the receipt of the city judge taken therefor. In accepting cash bonds to secure the appearance of persons cited, such officer shall be governed by the schedule of appearance bonds established in writing by the city judge.

No officer shall collect money to apply on fines without the written authorization of the city judge and city manager. Property believed to be stolen or lost coming into the possession of an officer shall be covered by a similar receipt and handled as in the case of valuables taken from prisoners. All fees for services rendered by any police officer shall be turned into the city treasurer. (1979 code, § 1-705)

1-706. Police uniforms and deportment. All policemen, when on duty, shall wear such uniforms, hats, and badges as the city manager shall determine and shall deport themselves in keeping with their position. (1979 code, § 1-706)

1-707. Arrests.¹ Arrests may be made by any member of the police force in the following cases: (1) Whenever he shall have in his possession a warrant duly issued by the proper officer; (2) whenever an offense shall be committed or a breach of the peace is threatened in his presence; (3) whenever a felony has in fact been committed and he has reasonable cause to believe that the arrested party committed it; and (4) with or without a warrant under the same circumstances and conditions as provided by statute for arrests by state officers. (1979 code, § 1-707)

1-708. Authority of policemen to summons witnesses. Whenever an arrest is made by any officer, it shall be lawful for him to summons any bystanders as witnesses, and such summons shall be as binding as though made by virtue of a subpoena issued by competent authorities. (1979 code, § 1-708)

1-709. Disposition of persons arrested, continuances, etc. When an arrest has been made, the prisoner shall be carried before the city court for arraignment at its next session, except when the prisoner is not in physical or mental condition to be tried, and at that time the cause shall be set for trial at some definite date.

When for the safekeeping of the party arrested, or for any other sufficient reason, imprisonment until trial is necessary, the prisoner shall be committed to the city workhouse, or such other place as designated by the council, unless he gives proper bond for his appearance in court. Upon his appearance, and upon any proper and legal showing, the city judge may continue his case at the request of the plaintiff or defendant, but for not more than three (3) days without the defendant's consent, and may require bond to

¹For provisions relating to traffic citations, etc., see title 9, chapter 6 in this code.

be given for the defendant's appearance, and in default of same, may commit him to the city workhouse or such other place designated by the council. (1979 code, § 1-709)

1-710. Bureau of identification. There is hereby created within the division of police, a bureau of identification to be administered by the chief of police. Any person under arrest and charged with, or convicted of violating any ordinance of the city, shall, upon request of a police officer, submit to the officer a description of himself, or herself, which said description shall include name, age, height, and fingerprint impressions of said person. Such information shall be retained permanently on file in the bureau of identification. (1979 code, § 1-710)

1-711. Disciplinary action against policemen. The city manager may provide, by rules or regulations, the method and manner in which charges may be brought against members of the police force. He may also provide for hearings on such charges and may take such disciplinary action as he may deem proper. Any member of the police force may be suspended or discharged for any of the following reasons: (1) Any act of insubordination or disrespect toward a superior officer; (2) acts of oppression and tyranny over any prisoner or person under his control; (3) neglect of duty; (4) violation of rules and regulations governing the division of police; (5) absence without leave; (6) immoral conduct, drinking on duty, drunkenness, gambling, or conduct unbecoming an officer and a gentleman; (7) any conduct injurious to the peace or welfare of the public; and (8) incapacity, either mental or physical. (1979 code, § 1-711)

1-712. Police personnel policies. (1) The city manager and the chief of police are hereby authorized and directed to: (a) classify by rank or grade all police department personnel and prescribe minimum qualifications for all employees within the respective classifications so established; (b) to promulgate and recommend minimum and maximum salaries within each classification and promotion policies for employees within the minimum and maximum salary schedules suggested; (c) to promulgate rules and regulations with respect to hours of work and annual and sick leave for all such employees; and (d) to promulgate rules and regulations with respect to employment policies discipline, and discharge of all such employees.

(2) The recommendations of the city manager in cooperation with the chief of police shall be submitted from time to time to the council for its approval, and upon approval by the council shall constitute, to the extent that such recommendations are applicable, the administrative policy of the department. (1979 code, § 1-712)

1-713. Disposition of weapons found on persons arrested. All pistols, knives, and other weapons, the carrying of which is unlawful, which may be

found upon any person arrested by a policeman, shall be seized by the chief of police and shall be retained by him and forfeited to the city, and shall in no case be returned to the individual from whom the same was taken or to anyone claiming the same. (1979 code, § 1-713)

CHAPTER 8

WORKHOUSE

SECTION

1-801. Who to be committed and when to be released.

1-802. Unpaid fines, etc., may be combined for one commitment or bond.

1-803. Rearrests for defaults on workhouse bonds.

1-804. Itemized statement of fines to accompany each mittimus.

1-805. Designation of workhouse.

1-801. Who to be committed and when to be released. Any person owing any fine, forfeiture, or penalty assessed against him in the city court for the violation of any ordinance, rule, or regulation of the city, shall immediately pay the same or be committed to the workhouse. Such commitment shall be in form similar to the commitment used by the courts in state cases and shall be signed by the city judge. When any person shall have been committed to the workhouse, he shall remain there until he has fully paid the fine, forfeiture, or penalty assessed against him, by the proceeds of his labor at the rate fixed by state law for each day of imprisonment; provided, however, that at any time after his commitment, he may pay the remainder of such assessments and, thereupon, be discharged; and provided, further, that he may be bailed out of said workhouse upon the execution and filing of a workhouse bond with good and sufficient security thereon to be approved by the city judge, which said bond shall be in form and content substantially as provided in state cases under section 41-2-126(a), Tennessee Code Annotated. (1979 code, § 1-801)

1-802. Unpaid fines, etc., may be combined for one commitment or bond. It shall be lawful for the total of the unpaid fines, penalties, and forfeitures, at any time assessed against a defendant, to be included in one commitment to the workhouse and one workhouse bond, whether or not any or all of said assessments have theretofore been included in a commitment or workhouse bond or bonds previously executed. (1979 code, § 1-802)

1-803. Rearrests for defaults on workhouse bonds. When any person has been bailed out of the workhouse and shall fail to pay any installment according to the terms of his bond, he shall forthwith be apprehended and returned to the workhouse. Then he shall either work out the remainder of his assessment or assessments or pay the remainder of the assessment in cash. He shall not be permitted to be bailed out again for the remainder of the unpaid fine, forfeiture, or penalty. (1979 code, § 1-803)

1-804. Itemized statement of fines to accompany each mittimus. At the time the city judge shall commit any person to the workhouse, he shall make out an itemized statement of fines, forfeitures, and penalties against such defendant. The statement shall accompany the mittimus for the use and guidance of the keeper of the workhouse. When any prisoner has worked out the assessment against him as provided in this chapter, the keeper of the workhouse shall so certify and shall accompany his certificate with a statement showing the disposition made of the prisoner while in the workhouse, which said certificate and statement shall be in such detail as the city judge may require and shall be filed with him. (1979 code, § 1-805)

1-805. Designation of workhouse. The workhouse shall be such place as the council shall designate by motion or resolution. The mayor and city manager are hereby authorized to make and execute a contract or contracts with Bedford County, or the workhouse commissioners of the county or such other persons or agencies as may be necessary to carry into effect the provisions of this chapter, dealing with the detention of prisoners in the workhouse for failure to pay fines, forfeitures, and penalties owing the city, for the purpose of boarding, keeping, working, and accounting for the services of any prisoner owing fines, forfeitures, and penalties assessed against him in the city court. The contract or contracts shall adequately provide for and assure the orderly and economical commitment, detention, care, working of, accounting for time worked, and disposition of, city prisoners by the city and county workhouse authorities and shall provide that such reports and accounts of said prisoners as necessary shall be certified to the city judge by the keeper of the workhouse. (1979 code, § 1-806)

CHAPTER 9

SHELBYVILLE MUNICIPAL AIRPORT AUTHORITY¹

SECTION

- 1-901. General law of state adopted by reference.
- 1-902. Creation and membership.
- 1-903. Organization and bylaws.
- 1-904. Definitions.
- 1-905. Purposes, powers, and duties, etc.
- 1-906. Meetings.
- 1-907. Rules and regulations.

1-901. General law of state adopted by reference. The terms and provisions of the general law regarding airport authorities as set forth in Tennessee Code Annotated, §§ 42-3-101 through 42-3-103, and Tennessee Code Annotated, §§ 42-5-101 through 42-5-205, and all amendments thereof, and all applicable municipal airport authority statutes, be and are hereby adopted and ratified, the same as if copied verbatim into this chapter, together with all future amendments of state law, and are made a part hereof fully by reference. (1979 code, § 1-1001, as replaced by Ord. #2014-934, March 2014)

1-902. Creation and membership. There is hereby created and established the Shelbyville Municipal Airport Authority, five (5) members of which shall be appointed by the Mayor of the City of Shelbyville and confirmed by the city council. In addition, the city council shall appoint a member of the Shelbyville City Council to assume representation to serve on the airport authority. This shall be for a two (2) year term. All members shall serve without compensation. Newly appointed members shall be sworn in by the city recorder. (1979 code, § 1-1002, as replaced by Ord. #2014-934, March 2014)

1-903. Organization and bylaws. The airport authority shall elect a chairman and a vice-chairman and shall adopt suitable bylaws for the management of its affairs. (as added by Ord. #2014-934, March 2014)

1-904. Definitions. All definitions, including the establishment of airports, and air navigation facilities, land acquisition, limitation on design and operation of air navigation facilities, public purposes of airports, acquisition of existing airports, eminent domain, disposal of airport property, the operation and use and privileges, liens, regulations and jurisdiction, appropriations, and

¹For the airport zoning ordinance, see title 11, chapter 3.

taxation, and all other matters pertaining to airports shall be as defined by the statutes of the State of Tennessee together with all future amendments thereof, which are hereby expressly adopted and made a part of this chapter by reference for all purposes. (as added by Ord. #2014-934, March 2014)

1-905. Purposes, powers, and duties, etc. The purposes of the Shelbyville Municipal Airport Authority are:

(1) To plan and promote the orderly development of air terminals and aviation facilities to service the City of Shelbyville.

(2) To promote the use of the air terminals serving the City of Shelbyville for air commerce, trade, industry, and other purposes.

(3) To protect the competitive position of the City of Shelbyville against other air terminals, municipalities, or localities in any suit, action, or proceeding affecting the trade or commerce thereof.

(4) To make contracts and leases with persons operating airlines for the use of the Shelbyville Airport and its facilities, for space in buildings and hangars, and for services; to make contracts and leases with the State of Tennessee in regard to facilities for the Shelbyville Airport squadrons and units; to make contracts and leases with the federal government or any agency thereof.

(5) To make contracts and leases for the sale of gasoline, oil or other products for the operation of airplanes.

(6) To make any and all necessary contracts and leases for the use of the airports and appurtenances thereto. However, any and all lease agreements entered into by the Shelbyville Airport Authority for services or facilities at the Shelbyville Airport shall be subject to approval by the City Council of the City of Shelbyville; and, provided further, whenever any real estate under the jurisdiction of the Shelbyville Airport Authority is sold or any real estate is acquired, the same shall require the approval of the Shelbyville City Council. Otherwise it is the intention of this chapter to confer upon the Shelbyville Airport Authority all those duties, powers, and limitations conferred upon the City of Shelbyville, in Tennessee Code Annotated, §§ 42-3-101 through 42-3-119. (as added by Ord. #2014-934, March 2014)

1-906. Meetings. The Shelbyville Airport Authority shall meet in a public place and shall keep a minute record of its meetings. The city recorder shall be responsible for keeping such records. All meetings shall comply with state law on open meetings. (as added by Ord. #2014-934, March 2014)

1-907. Rules and regulations. (1) The rules and regulations, adopted by the Shelbyville Municipal Airport Authority, shall be adopted by the City Council of the City of Shelbyville.

(2) All persons, firms, association or corporations using any portion of Shelbyville Municipal Airport whether as passenger, pilot, operator, lessee,

invitee, tenant, or licensee are hereby charged and required to comply with the terms of those regulations.

(3) A violation of any rule or regulation shall be a violation of this chapter.

(4) The airport manager is primarily responsible for the operation, maintenance, security, and protection at the airport, and he is hereby designated as such individual by the City Council of the City of Shelbyville.

(5) The airport manager shall work closely and in conjunction with the Shelbyville Police Department, and any and all violations of the rules and regulations are hereby declared to be misdemeanors, and punishable in the city court of the City of Shelbyville. Any violation of the rules and regulations adopted herein, or of any ordinance of the City of Shelbyville, shall be prosecuted upon a warrant duly issued by the city judge, with the airport manager or a member of the police department as prosecutors upon said warrant.

(6) The airport manager is also designated by the city council as the proper official to maintain peace, harmony and tranquility at said airport, to enforce the rules and regulations of the Shelbyville Municipal Airport Authority, and to enforce the ordinances of the City of Shelbyville. (as added by Ord. #2014-934, March 2014)

CHAPTER 10

PARK AND RECREATION ADVISORY BOARD

SECTION

- 1-1001. Creation and membership.
- 1-1002. Compensation and vacancies.
- 1-1003. Organization; rules and regulations; quorum.
- 1-1004. Duties
- 1-1005. [Deleted.]
- 1-1006. [Deleted.]

1-1001. Creation and membership. There is hereby created a park and recreation advisory board consisting of ten (10) persons, one of whom shall be a member of the council, and one shall be a high school student who is a resident of Shelbyville. All members shall be appointed by the mayor for a term of two (2) years or until their successors are appointed and qualified, and all said appointments shall be made upon the expiration of the ordinance No. 462, it being the intention that the terms of office of one-half (½) of said members shall expire annually thereafter. (Ord. No. 462, as replaced by Ord. #851, June 2008)

1-1002. Compensation and vacancies. All members of the board shall serve without remuneration and any vacancies occurring other than by expiration of a term of office shall be filled by the mayor for the unexpired term only. (Ord. No. 462, as replaced by Ord. #851, June 2008)

1-1003. Organization; rules and regulations; quorum. The board shall meet and organize by selecting a chairman and a secretary who shall serve at the pleasure of the board for respective terms of one (1) year. The board shall designate the time and place for its meetings and shall adopt such rules and regulations as it may deem necessary for the proper conduct of its affairs. A majority of the members of said board shall constitute a quorum, and a majority of the board shall be required to transact the business of the board. Any number may adjourn any meeting in the absence of a quorum or a required majority to transact business. (Ord. No. 462, as replaced by Ord. #851, June 2008)

1-1004. Duties. The board shall serve as a vehicle for receiving public opinion and providing general guidance to the city manager and the city council on park and recreation matters, including without limitation, the establishment, operation, and maintenance of parks, recreation facilities, and recreational programs. (Ord. No. 462, as replaced by Ord. #851, June 2008)

1-1005. [Deleted.] (Ord. No. 462, as deleted by Ord. #851, June 2008)

1-1006. [Deleted.] (Ord. No. 462, as deleted by Ord. #851, June 2008)

CHAPTER 11

PARKS AND RECREATION DEPARTMENT

SECTION

1-1101. Creation and duties

1-1102. General responsibilities and duties of the director

1-1103. To administer work of department.

1-1104. To conduct studies of local conditions and needs.

1-1105. To assist with acquisition, design, construction, etc., of recreation facilities.

1-1106. Purpose of this chapter.

1-1101. Creation and duties. There is hereby created a parks and recreation department which shall be under the direct supervision of a director of the department who shall be appointed by the city manager. The duties of the department shall be to develop immediate and long-range plans to meet the recreational needs of the citizens of Shelbyville; to recommend the acquisition, design, construction and operation of recreation facilities; to develop an overall recreation program for people of all ages; to establish, operate and maintain the parks and recreational facilities and programs of the City of Shelbyville. (Ord. No. 463, as replaced by Ord. #852, June 2008)

1-1102. General responsibilities and duties of the director. The director shall have full charge of the recreational program as promulgated by the city council; he or she shall serve as technical advisor to the parks and recreation advisory board and council; and he or she shall promote recreational opportunities for all of the people of the City of Shelbyville. (Ord. No. 463, as replaced by Ord. #852, June 2008)

1-1103. To administer work of department. The director will administer the work of the department; create and supervise an efficient administrative organization for the department; and establish administrative procedures to the end that maximum service may be provided at reasonable cost. (Ord. No. 463, as replaced by Ord. #852, June 2008)

1-1104. To conduct studies of local conditions and needs. The director will conduct studies of local conditions and needs affecting recreation for the purpose of developing immediate and long range plans to meet these needs; to check the effectiveness of the department's services; and to keep informed as to developments in the recreation field. (Ord. No. 463, as replaced by Ord. #852, June 2008)

1-1105. To assist with acquisition, design, construction, etc., of recreation facilities. The director will recommend the acquisition, design, construction and operation of recreation facilities and areas under the control of the department, and arrange for their proper maintenance and operation. (Ord. No. 463, as replaced by Ord. #852, June 2008)

1-1106. Purpose of this chapter. It is the intention of the city council by the enactment of this chapter to create recreational facilities for the citizens of the City of Shelbyville and to create a program for the benefit and welfare of the citizens. (Ord. No. 463, as replaced by Ord. #852, June 2008)

1-1107. [Deleted.] (Ord. No. 463, as deleted by Ord. #852, June 2008)

1-1108. [Deleted.] (Ord. No. 463, as deleted by Ord. #852, June 2008)

1-1109. [Deleted.] (Ord. No. 463, as deleted by Ord. #852, June 2008)

1-1110. [Deleted.] (Ord. No. 463, as deleted by Ord. #852, June 2008)

1-1111. [Deleted.] (Ord. No. 463, as deleted by Ord. #852, June 2008)

1-1112. [Deleted.] (Ord. No. 463, as deleted by Ord. #852, June 2008)

1-1113. [Deleted.] (Ord. No. 463, as deleted by Ord. #852, June 2008)

CHAPTER 12

WARDS¹

SECTION

1-1201. Wards described.

1-1201. Wards described. Pursuant to the terms and provisions of the charter, the territory embraced within the boundaries of the city is hereby divided into six (6) wards numbered 1 through 6, inclusive, the boundaries of which wards shall be as follows:

WARD NO. 1 shall comprise all that portion of the City of Shelbyville situated within the following boundaries: Beginning at the southwest corner of the Public Square at the intersection of Depot Street and Spring Street and proceeding in a westerly direction along Depot Street to Mill Street; then proceeding in a northerly direction on Mill Street to Holland Street; then proceeding in a westerly direction along Holland Street to Cannon Boulevard; then proceeding in a southerly direction on Cannon Boulevard to the center of Bedford Veteran's Memorial Bridge; then proceeding in a southerly direction along the Duck River to the corporate boundary of Shelbyville, Tennessee as shown on the U.S. Bureau of the Census Maps prepared for the 1990 Federal decennial census; then proceeding in a north and generally east direction along said corporate boundary as shown on said census maps to a point approximately 120 feet west of Treemont Drive which is beneath the TVA power lines; then proceeding east beneath said TVA power lines to Treemont Drive; then proceeding north along Treemont Drive to Birch Street; then proceeding west along Birch Street to Neely Avenue; then proceeding in a southerly direction along Neely Avenue to Depot Street; then proceeding west on Depot Street to Bethany Lane; then proceeding north on Bethany Lane to Maplewood Drive; then proceeding west along Maplewood Drive to Thompson Street; then southerly along Thompson Street to Belmont Avenue; then proceeding north along Belmont Avenue to Dunnaway Street; then proceeding southwesterly along Dunnaway Street to South Main Street; then proceeding in a northerly direction along South Main Street to McGrew Street; then proceeding west along McGrew Street to Spring Street; then north along Spring Street to the point of the beginning.

¹See the charter, article I, section 3.

WARD NO. 2 shall comprise all that portion of the City of Shelbyville situated within the following boundaries: Beginning at the intersection of Maplewood Drive and Thompson Street proceeding in a northerly direction to Lane Parkway; then proceeding in a northeasterly direction along Lane Parkway to Whitthorne Street; then proceeding in a northerly direction along Whitthorne Street to Madison Street; then proceeding westerly along Madison Street to Evans Street; then proceeding northerly along Evans Street to Calhoun Street; then proceeding easterly along Calhoun Street to Whitthorne Street; then proceeding along Whitthorne Street in a northeasterly direction to Blue Ribbon Parkway; then proceeding in a north and easterly direction along Horse Mountain Road to Eaton Drive; then proceeding along Eaton Drive in a southerly direction to Hillcrest Drive and proceeding along Hillcrest Drive in a southerly direction to Madison Street; then proceeding in a easterly direction along Madison Street to Richland Drive; then proceeding in a northeasterly direction along Richland Drive to Ledbetter Road; then proceeding in an easterly direction on Ledbetter Road to the corporate boundary of Shelbyville, Tennessee as shown on the U.S. Bureau of the Census Maps prepared for the 1990 Federal decennial census; then proceeding generally in a south and westward direction along said corporate boundary as shown on said census maps to a point approximately 120 feet west of Treemont Drive which is beneath the TVA power lines; then proceeding easterly below the TVA power lines to Treemont Drive; then proceeding northerly along Treemont Drive to Birch Street; then proceeding in a westerly direction along Birch Street to Neely Avenue; then proceeding in a southerly direction along Neely Street to Depot Street; then proceeding along Depot Street to Bethany Lane; then proceeding north along Bethany Lane to Maplewood Drive; then proceeding along Maplewood Drive to the point of the beginning.

WARD NO. 3 shall comprise all that portion of the City of Shelbyville situated within the following boundaries: Beginning at the intersection of Deery Street and Greenwood Avenue proceeding east to Evans Street; then proceeding south along Evans Street to Calhoun Street; then east along Calhoun Street to Witthorne Street; then proceeding northeast along Witthorne Street to Horse Mountain Road; then proceeding along Horse Mountain Road in a northeasterly direction to Eaton Drive; then south along Eaton Drive to Hillcrest Drive; then proceeding south along Hillcrest Drive to Madison Street; then proceeding east along Madison Street to Richland Drive; then proceeding north along Richland Drive to Ledbetter Road; then proceeding east along Ledbetter Road to the corporate boundary of Shelbyville, Tennessee as shown on the U.S. Bureau of the Census Maps prepared for the 1990 Federal decennial census; then proceeding generally in a north and westerly direction along said corporate boundary as shown on said census maps to Fairfield Pike; then proceeding south along Fairfield Pike to Deery Street; then proceeding south on Deery Street to the point of the beginning.

WARD NO. 4 shall comprise all that portion of the City of Shelbyville situated within the following boundaries: Beginning at the intersection of Scotland Heights Street and North Main Street; proceeding south along North Main Street to Elm Street; then proceeding westward along Elm Street and Union Street to the corporate boundary of Shelbyville, Tennessee as shown on the U.S. Bureau of Census Maps prepared for the 1990 Federal decennial census; then proceeding generally in a east and northerly direction along said corporate boundary as shown on said census maps to Fairfield Pike; then proceeding south along Fairfield Pike to Scotland Heights Street; then proceeding westward along Scotland Heights Street to the point of the beginning.

WARD NO. 5¹ shall comprise all that portion of the City of Shelbyville situated within the following boundaries: Beginning at the intersection of North Main Street and Elm Street proceeding in a west, northwesterly direction along Elm Street and Union Street to the corporate boundary as shown on the U.S. Bureau of the Census Maps prepared for the 1990 Federal decennial census; then proceeding generally in a south and easterly direction along said corporate boundary as shown on said census maps to West Lane Street; then proceeding eastward to Central Avenue; then proceeding south on Central Avenue to River Road; then proceeding east on River Road and Jackson Street to Cannon Boulevard; then proceeding north on Cannon Boulevard to Walking Horse and Eastern Railroad Line tracks; then proceeding east along the railroad tracks to North Main Street; then proceeding south along North Main Street to Depot Street; then proceeding east along Depot Street to the Walking Horse and Eastern Railroad Line tracks; then proceeding in a southwest direction along the railroad tracks to Elliott Street; then proceeding southeast along Elliott Street to Lentz Street; then proceeding south along Lentz Street to Dunnaway Street; then proceeding along Dunnaway Street in a northeast direction to Belmont Avenue; then proceeding along Belmont Avenue in a southeastern direction to Thompson Street; then proceeding north along Thompson Street to Lane Parkway; then proceeding along Lane Parkway to Witthorne Street; then proceeding northeast along Witthorne Street to Madison Street; then proceeding west along Madison Street to Evans Street; then proceeding north along Evans Street to Greenwood Avenue; then proceeding west along Greenwood Avenue to Deery Street; then proceeding north on Deery Street to Fairfield Pike and continuing north on Fairfield Pike to Scotland Heights Drive; then proceeding west on Scotland Heights Drive to Main Street; then south along Main Street to the point of the beginning.

¹**WARD NO. 5** has had territory added to it by the following annexation ordinances of record in the recorder's office: ordinance No. 478.

WARD NO. 6 shall comprise all that portion of the City of Shelbyville situated within the following boundaries: Beginning at the intersection of South Main Street and Dunnaway Street proceeding in a north easterly direction along Dunnaway Street to Lentz Street; then proceeding north along Lentz Street to Elliott Street; then proceeding northwest along Elliott Street to the Walking Horse and Eastern Railroad Line tracks; then proceeding along the railroad tracks in a northerly direction to Depot Street; then proceeding west along Depot Street to Main Street then proceeding north along Main Street to Walking Horse and Eastern Railroad Line tracks; then proceeding west along the railroad tracks to Cannon Boulevard; then proceeding south on Cannon Boulevard to Jackson Street; then proceeding west on Jackson Street to River Road and continuing west on River Road to Central Avenue; then proceeding north along Central Avenue to West Lane Street; then proceeding westerly on West Lane Street to the corporate boundary as shown on the U.S. Bureau of the Census Maps prepared for the 1990 Federal decennial census; then proceeding generally in a southerly then northerly direction along the corporate boundary to the Duck River east of Cannon Boulevard; then proceeding north along the Duck River to Cannon Boulevard; then proceeding north on Cannon Boulevard to Holland Street; then proceeding east on Holland Street to Mill Street; then proceeding south on Mill Street to Depot Street; then proceeding east on Depot Street to Spring Street; then proceeding south on Spring Street to McGrew Street; then proceeding east on McGrew Street to South Main Street; then proceeding south on South Main Street to the point of the beginning. (1979 code, § 1-1301, as replaced by ord. No. 482)

CHAPTER 13

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

1-1301. Program created.

1-1302. Title.

1-1303. Purpose.

1-1304. Coverage.

1-1305. Standards authorized.

1-1306. Variances from standards authorized.

1-1307. Administration.

1-1308. Funding the program.

1-1301. Program created. There is hereby created a safety and health program for the employees of the City of Shelbyville, as follows. (1979 code, § 1-1501)

1-1302. Title. This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Shelbyville. (1979 code, § 1-1502, as amended by Ord. #2013-928, Nov. 2013)

1-1303. Purpose. The City of Shelbyville in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

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

(a) Top management commitment and employee involvement;
(b) Continually analyze the worksite to identify all hazards and potential hazards;

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

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

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

(3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibility have been delegated, adequate records of all occupational accidents and illnesses and

¹See the Tennessee Code Annotated, title 50, chapter 3.

personal injuries for proper evaluation and necessary corrective action as required.

(4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (1979 code, § 1-1503, as amended by Ord. #656, Jan. 2001, and Ord. #2013-928, Nov. 2013)

1-1304. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Shelbyville shall apply to all employees of each administrative department, commission, board, division or other agency whether part-time or full-time, seasonal or permanent. (1979 code, § 1-1504, as amended by Ord. #656, Jan. 2001, and Ord. #2013-928, Nov. 2013)

1-1305. Standards authorized. The occupational safety and health standards adopted by the City of Shelbyville are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, Title 50, Chapter 3). (1979 code, § 1-1505, as amended by Ord. #656, Jan. 2001, and Ord. #2013-928, Nov. 2013)

1-1306. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees.

(1979 code, § 1-1506, as amended by Ord. #656, Jan. 2001, and Ord. #2013-928, Nov. 2013)

1-1307. Administration. For the purposes of this chapter, the city manager is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, chapter 0800-01-05, as authorized by Tennessee Code Annotated, title 50. The city recorder is designated as the administrative safety secretary for the purpose of keeping all records associated with the program plan. The administrative assistant fire chief aka deputy fire chief is designated as the safety inspector/compliance inspector for the purpose of all duties as contained in the "plan of operation." (1979 code, § 1-1507, as amended by Ord. #656, Jan. 2001, and Ord. #2013-928, Nov. 2013)

1-1308. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Shelbyville. (1979 code, § 1-1508, as amended by Ord. #656, Jan. 2001, and Ord. #2013-928, Nov. 2013)

CHAPTER 14

PURCHASING DEPARTMENT--PURCHASING PROCEDURES

SECTION

1-1401. Purchasing policies and procedures.

1-1401. Purchasing policies and procedures. Available in the office of the recorder is Ordinance No. 915, January 25, 2013, which is an ordinance to adopt Resolution No. 28-12, as the city's purchasing policies and procedures for the procurement of equipment, services, materials, and supplies for the operation of the City of Shelbyville. (as replaced by Ord. #915, Jan. 2013)

CHAPTER 15

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 1-1501. Travel policy.
- 1-1502. Travel requests.
- 1-1503. Travel documentation.
- 1-1504. Transportation.
- 1-1505. Lodging; meals; miscellaneous expenses; entertainment.
- 1-1506. Non-reimbursable items.
- 1-1507. Travel reconciliation.
- 1-1508. Special circumstances.
- 1-1509. Disciplinary action.

1-1501. Travel policy. In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of mayor and city council and committees appointed by the mayor or the city council, the employees of such boards and committees and all other municipal employees who are traveling on official municipal business and whose travel was authorized in accordance with this policy. Members of advisory boards and commissions desiring to travel on city business shall file a written request to travel with the city manager. (Ord. #496, Sept. 1993, as replaced by Ord. #582, Oct. 1997, and Ord. #2013-931, Dec. 2013)

1-1502. Travel requests. To ensure reimbursement for official travel, an approved travel authorization form is required. Lack of pre-approval does not prohibit reimbursement, but it does assure reimbursement within the limits of the city travel policy. All costs associated with the travel should be reasonably estimated and shown on the travel authorization form. The authorized traveler also shall indicate:

- (1) That the proposed travel is approved in the present budget; and
- (2) The line item that will be used to pay for the travel.

Any travel advance must be approved by the city manager. An approved authorization form is needed before advanced expenses are paid or travel advances are authorized. A copy of the conference program, if applicable, should be attached to the form. If the program is not available prior to the travel, submit it with the reimbursement form.

The municipality may pay directly to provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #496, Sept. 1993, as replaced by Ord. #582, Oct. 1997, and Ord. #2013-931, Dec. 2013)

1-1503. Travel documentation. To qualify for reimbursement, travel expenses must be:

- (1) Directly related to the conduct of the city business for which the travel was authorized; and
- (2) Actual, reasonable, and necessary under the circumstances. The city manager may make exceptions for unusual circumstances.
- (3) It is the responsibility of the authorized traveler to:
 - (a) Prepare and accurately describe the travel;
 - (b) Certify the accuracy of the reimbursement request;
 - (c) Note on the reimbursement form all direct payments and travel advances made by the city; and
 - (d) File the completed reimbursement form with the necessary supporting documents and original receipts.
- (4) The reimbursement form must include director's signature and should be filed with the purchasing office within ten (10) days of return or at the end of the month, whichever is more practical. (Ord. #496, Sept. 1993, as replaced by Ord. #582, Oct. 1997, amended by Ord. #785, Nov. 2005, and replaced by Ord. #2013-931, Dec. 2013)

1-1504. Transportation. (1) All potential costs should be considered when selecting the modes of transportation. For example, airline travel may be cheaper than automobile when time away from work and increased meal and lodging costs are considered. When time is important, or when the trip is so long that other modes of transportation are not cost beneficial, air travel is encouraged.

If the traveler goes outside the state by means other than air, the reimbursement will be limited to air fare at tourist or economy class, mileage to and from the nearest airport, ordinary expenses during the meeting dates, and one day's meals and motel before and after the meeting. The traveler will be required to take annual leave for any additional time taken beyond the day before and after the meeting dates.

(2) Exceptions. When the traveler extends the trip with personal time to take advantage of discount fares, the reimbursement will be limited to the less of:

- (a) The actual expenses incurred; or
- (b) The amount that would have been incurred for the business portion only.

The calculations for the business portion of the trip must be made using the least expensive rates available. All expenses and savings associated with extending the trip must be submitted with the expense reimbursement form.

- (i) Air. When possible, the traveler should make full use of discounts for advance airline reservations and advance registration. The traveler should request conference, government,

or weekend rates, whichever is cheaper, when making lodging or rental car reservations. The city will pay for tourist or economy class air travel. The traveler should get the cheapest reasonable fare and take advantage of "super saver" or other discount fares. Airline travel can be paid by direct billing to the city.

Mileage credits for frequent flyer programs accrue to the individual traveler. However, the city won't reimburse additional expenses, such as circuitous routing, extended stays, layovers to schedule a particular carrier, upgrading from economy to first class for travelers to accumulate additional mileage or for other personal reasons.

The city won't reimburse travel by private aircraft unless authorized advance by the city manager.

(ii) Rail or bus. The city will pay for actual cost of ticket.

(iii) Vehicles. Automobile transportation may be used when a common carrier cannot be scheduled, when it is more economical, when a common carrier is not practical, or when expenses can be reduced by two (2) or more city employees traveling together.

(A) Personal vehicles. Employees must use city vehicles when possible. Use of a private vehicle must be approved in advance by the city manager. The city will pay a mileage rate equal to the current milage rate paid by the State of Tennessee. The miles for reimbursement shall be paid from origin to destination and back by most direct route. Necessary vicinity travel related to official city business will be reimbursed. However, mileage in excess of the Rand-McNally mileage must be documented as necessary and business-related. If an indirect route is taken, the Rand-McNally milage table will be used to determine the mileage to be reimbursed.

If a privately owned automobile is used by two or more travelers on the same trip, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It is the responsibility of the traveler to provide adequate insurance to hold harmless the city for any liability from the use of the private vehicle.

In no event will mileage reimbursement, plus vicinity travel and associated automobile costs, exceed the lowest reasonable available airfare and associated air fare travel costs.

Travelers will not be reimbursed for automobile repair or breakdowns when using their personal vehicle.

(B) City vehicle. The city will require the employee to drive a city vehicle if available. If a city vehicle is provided, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable business. The employee will be reimbursed for expenses directly related to the actual and normal use of the city vehicle when proper documentation is provided. Out-of-town repair cost to the city vehicle in excess of one hundred dollars (\$100.00) must be cleared with the proper city officials before the repair is authorized. Anyone driving a city vehicle must have a valid driver's license in his or her name.

(C) Rental cars. Use of a rental car is not permitted unless it is less expensive or otherwise more practical than public transportation. Approval of car rental is generally required in advance by the city manager. Always request the government or weekend rate, whichever is cheaper. Anyone who uses a rental car for out-of-state travel must obtain liability coverage from the vendor. In nearly all cases, an intermediate size automobile is the most appropriate vehicle to rent.

Fines for traffic or parking violations will not be reimbursed by the city.

Reasonable tolls will be allowed when the most direct travel route requires them.

(D) Taxi, limousine, and other transportation fares. When an individual travels by common carrier, reasonable fares will be allowed for necessary ground transportation. Bus or limousine service to and from airports should be used when available and practical. The city will reimburse mileage for travel to and from the local airport and parking fees, provided such costs do not exceed normal taxi/limousine fares to and from the airport. Receipts are required.

For travel between lodging quarters and meetings, conferences, or meals, reasonable taxi fares will be allowed. Original receipts are required for claims of five dollars (\$5.00) or more. Transportation to and from shopping, entertainment, or other personal trips is the choice of the traveler and not reimbursable.

Reimbursement claims for taxis, limousines, or other ground transportation must be listed separately on the expense reimbursement form, claiming the destination and amount of each fare. (Ord. #496, Sept. 1993, as replaced by Ord. #582, Oct. 1997, amended by Ord. #636, March 2000,

and Ord. #785, Nov. 2005, and replaced by Ord. #2013-931, Dec. 2013).

1-1505. Lodging; meals; miscellaneous expenses; entertainment.

(1) Lodging. The amount allocated for lodging shall be the lowest possible attainable.

(a) Original lodging receipts must be submitted with the reimbursement form. Photocopies are not acceptable.

(b) Moderately priced accommodations must be requested whenever possible. It will be the traveler's responsibility to provide documentation of the "officially designated meeting site" room rates.

(c) If two (2) or more city employees travel together and share a room, the lodging reimbursement rate will be the maximum of two (2) single rooms.

(2) Meals. Authorized travelers shall be reimbursed for the actual, reasonable and necessary expenses for meals consumed while on official city travel. The city will only pay reasonable and customary amount for meal expenses. This is subject to a maximum amount depending on the location of the travel. ("Washington, DC" for example). On any authorized travel involving an overnight stay, expenditures for meals documented by proper receipts will be reimbursed to authorized travelers according to the following schedule. The reimbursement schedule may be changed by motion of the city council. Calculation is based upon: Breakfast ten dollars (\$10.00), lunch twelve dollars (\$12.00), and dinner eighteen dollars (\$18.00).

Full day	\$40.00
Day of departure, depart before 7:00 A.M.	\$40.00
Day of departure, depart after 7:00 A.M./before 11:00 A.M.	\$30.00
Day of departure, depart after 11:00 A.M.	\$18.00
Day of return, return after 8:00 A.M.	\$10.00
Day of return, return after 1:30 P.M.	\$22.00
Day of return, return after 6:00 P.M.	\$40.00

(3) Miscellaneous expenses. (a) Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed and generally include the cost of official banquets, meals, lodging, and registration fees. Registration fees should be specified on the original travel authorization form and can include a request for pre-registration fee payment.

(b) A four dollar (\$4.00) allowance in any one (1) day will be reimbursable for hotel/motel check-in and check-out baggage handling expenses.

(c) Laundry services are considered personal expenses and are not reimbursable.

(d) For travel outside the United States, all expenses claimed must be converted to U.S. dollars. The conversion rate and computation should be shown on each receipt.

(4) Entertainment. (a) The city may pay for certain entertainment expenses provided that:

(i) The entertainment is appropriate in the conduct of the city business;

(ii) The entertainment is approved by the city manager;

(iii) The group or individuals involved are identified; and

(iv) Documentation is attached to the expense form to support the entertainment expense claims.

(b) To request reimbursement for authorized entertainment expenses, be sure to include with the expense reimbursement form:

(i) Required receipts. All requests must be supported by original; receipts from the vendor (restaurant, caterer, ticket office, etc.). Reasonable tips and gratuities are reimbursable.

(ii) A disclosure and explanation statement explaining the purpose of the entertainment and identifying the group and the number of people entertained (or individual names listed if not a recognized group). (Ord. #496, Sept. 1993, as replaced by Ord. #582, Oct. 1997, and Ord. #2013-931, Dec. 2013)

1-1506. Non-reimbursable items. The following items are only given as a guideline and not necessarily a complete list of things for which the city will not provide reimbursement: airline or other travel insurance, barbers and hairdressers, spa/salon services, kennel costs for pets, golf fees, alcoholic beverages, car washes for employee-owned vehicles, traffic fines and parking tickets, or accidents and breakdowns in employee-owned vehicles. (Ord. 496, Sept. 1993, as replaced by Ord. #582, Oct. 1997, and Ord. #2013-931, Dec. 2013)

1-1507. Travel reconciliation. (1) Within ten (10) days of return from travel, or by the end of the month, the traveler is expected to complete and file the expense reimbursement form. It must be certified by the traveler that the amount due is true and accurate. Reimbursement form must be signed by employee's supervisor, travel reimbursement shall be approved by the city manager. Original lodging, travel, taxi, parking, and other receipts must be attached.

If the city provided a travel advance or made advanced payment, the traveler should include that information on the expense form. In the case of advances, the form should have a reconciliation summary, reflecting total claimed expenses with advances and city pre-payments indicated. The balance due the traveler or the refund due the city should be clearly shown--below the total claim on the form or in a cover memo attached to the front of the form.

(2) If the traveler received a travel advance and spent less than the advance, the traveler should attach a check made payable to the city for that difference. (as added by Ord. #2013-931, Dec. 2013)

1-1508. Special circumstances. The city manager will address special circumstances and issues not covered in this travel policy on a case-by-case basis. (as added by Ord. #2013-931, Dec. 2013)

1-1509. Disciplinary action. Violation of the travel rules will result in disciplinary action for employees. Travel fraud can result in criminal prosecution of officials and/or employees. (as added by Ord. #2013-931, Dec. 2013)

CHAPTER 16

CODE OF ETHICS¹

SECTION

- 1-1601. Applicability.
- 1-1602. Definition of "personal interest."
- 1-1603. Disclosure of personal interest by official with vote.
- 1-1604. Disclosure of personal interest in non-voting matters.
- 1-1605. Acceptance of gratuities, etc.
- 1-1606. Use of information.
- 1-1607. Use of municipal time, facilities, etc.
- 1-1608. Use of position or authority.
- 1-1609. Outside employment.
- 1-1610. Ethics complaints.
- 1-1611. Violations.

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

Campaign finance: Tennessee Code Annotated, title 2, ch. 10.

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

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

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

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

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

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

1-1601. Applicability. This chapter constitutes the code of ethics for officials and personnel of the City of Shelbyville. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #806, Dec. 2006)

1-1602. Definition of "personal interest." (1) For purposes of §§ 1-1603 and 1-1604, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #806, Dec. 2006)

1-1603. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure. (as added by Ord. #806, Dec. 2006)

1-1604. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or

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

policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #806, Dec. 2006)

1-1605. 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 city:

(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. #806, Dec. 2006)

1-1606. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #806, Dec. 2006)

1-1607. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the city council to be in the best interests of the city. (as added by Ord. #806, Dec. 2006)

1-1608. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the city.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the city. (as added by Ord. #806, Dec. 2006)

1-1609. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the city's charter or any ordinance or policy. (as added by Ord. #806, Dec. 2006)

1-1610. Ethics complaints. (1) The city attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

(b) The city attorney may request the city council to hire 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 city council, the city council shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the city council determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the city council.

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #806, Dec. 2006)

1-1611. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the city council. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #806, Dec. 2006)

TITLE 2

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES.
4. "BROWN-BAGGING."

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 2-101. Alcoholic beverages subject to regulation.
- 2-102. Application for certificate of good moral character.
- 2-103. Applicant to agree to comply with laws.
- 2-104. Applicant to appear before board of mayor and aldermen; duty to give information.
- 2-105. Action on application.
- 2-106. Residency requirement.
- 2-107. Applicants for certificate who have criminal record.
- 2-108. Only one establishment to be operated by retailer.
- 2-109. Where establishments may be located.
- 2-110. Retail stores to be on ground floor; entrances.
- 2-111. [Deleted.]
- 2-112. Sales for consumption on premises.
- 2-113. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 2-114. Inspection fee.
- 2-115. Violations.

2-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to

¹For provisions prohibiting driving under the influence, see section 9-108 in this code; for provisions prohibiting minors in beer places, prohibiting public drunkenness, and prohibiting drinking beer, etc., on the streets, etc., see title 10.

For general provisions in the state law, see title 57 of the Tennessee, Code Annotated.

purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57.¹

2-102. Application for certificate of good moral character.² Before any character certificate, as required by Tennessee Code Annotated, section 57-3-208 or a renewal as required by 57-3-213 shall be signed by the mayor, or by any commissioners,³ an application in writing shall be filed with the city manager on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence in the city.
- (3) Occupation or business and length of time engaged in such occupation or business.
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
- (5) If employed, the name and address of employer.
- (6) If in business, the kind of business and location thereof.
- (7) The location of the proposed store for the sale of alcoholic beverages.
- (8) The name and address of the owner of the store.
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

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

Each application shall be accompanied by a non-refundable investigation fee of two hundred and fifty dollars (\$250.00).

2-103. Applicant to agree to comply with laws. The applicant for a certificate of good moral character shall agree in writing to comply with the

¹State law reference

Tennessee Code Annotated, title 39, chapter 6.

²State law reference

Tennessee Code Annotated, section 57-3-208.

³State law reference

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

state and federal laws and ordinances of the city and rules and regulations of the Alcoholic Beverage Commission of the State for sale of alcoholic beverages.

2-104. Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of good moral character may be required to appear in person before the board of commissioners for such reasonable examination as may be desired by the board.

2-105. Action on application. Every application for a certificate of good moral character shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of commissioners within thirty (30) days of the date each application was filed.

The mayor or a majority of the board of commissioners may issue a certificate of moral character to any applicant.

2-106. Residency requirement. The applicant has met State of Tennessee residency requirements required for the issuance of retail sales license. (as replaced by Ord. #707, Jan. 2003)

2-107. Applicants for certificate who have criminal record. No certificate of good moral character for the manufacture or sale at wholesale or retail of alcoholic beverages or for the manufacture or vinting of wine shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of good moral character, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws.

2-108. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one place of business for the sale of alcoholic beverages in the city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise.

2-109. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose, but in no event shall any establishment be located within five hundred (500) feet of a hospital, church or school, or any other place of public gathering,

measured in a straight line¹ between the nearest point on the property line upon which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the hospital, school, church, or other place of public gathering.

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

2-111. [Deleted.] (as deleted by Ord. #717, May 2003)

2-112. Sales for consumption on premises. No alcoholic beverages shall be sold for consumption on the premises of the seller.

2-113. Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees.

2-114. Inspection fee. The City of Shelbyville hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, section 57-3-510 on all licensed retailers of alcoholic beverages located within the corporate limits of the city.

2-115. Violations. Any violation of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine under the general penalty clause of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the

¹State law references

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

²State law references

Tennessee Code Annotated, section 57-3-708(b).

conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.

CHAPTER 2

BEER¹

SECTION

- 2-201. Permit required for engaging in beer business.
- 2-202. Terms defined.
- 2-203. Beer business lawful but subject to regulation.
- 2-204. Beer board created.
- 2-205. Qualifications, compensation, and terms of board members.
- 2-206. Vacancies.
- 2-207. Organizations, records, quorum, and meetings of the board.
- 2-208. Meetings.
- 2-209. (Reserved)
- 2-210. Powers and duties of the board.
- 2-211. Applications for beer licenses or permits.
- 2-212. False statements in applications.
- 2-213. Board's action on applications.
- 2-214. Permit required for engaging in beer business and fees assessed.
- 2-215. License--hotels; motels; clubs; lodges.
- 2-216. Special event permits.
- 2-217. (Reserved)
- 2-218. Restrictions.
- 2-219. Appeals from the board's action.
- 2-220. Licenses to be for special locations, to be displayed, to be subject to revocation, and to be renewed annually.
- 2-221. Transfer of licenses to different locations.
- 2-222. Beer licenses not to be issued when congestion of traffic, interference with schools, etc., will result.
- 2-223. (Reserved)
- 2-224. Wholesale beer tax.
- 2-225. Privilege tax.
- 2-226. Sales to minors prohibited.
- 2-227. Employment of and loitering of minors prohibited.

¹For a leading case in Tennessee on a city's authority to regulate beer, see the 1947 Tennessee Supreme Court decision in Grubb et al. v. Mayor and Aldermen of Morristown et al., 185 Tenn. 114.

Municipal code references

General business regulations: title 5.

Tax provisions: title 6.

Minors in beer places, etc.: title 10.

- 2-228. (Reserved)
- 2-229. Ex-convicts not to be licensed or employed.
- 2-230. Compliance with state law required.
- 2-231. Intoxicating liquor.
- 2-232. Hours of sale.
- 2-233. (Reserved)
- 2-234. (Reserved)
- 2-235. Drugs on premises.
- 2-236. Enforcement.
- 2-237. Suspension or revocation of license or permit.
- 2-238. Forfeiture of license fees, etc.
- 2-239. Additional rules and regulations.
- 2-240. Penalty.
- 2-241. Civil penalty in lieu of suspension.

2-201. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer within the corporate limits of the City of Shelbyville without first making application to and obtaining a permit from the beer board. However said activities shall be subject to all of the regulations, limitations and restrictions hereinafter provided, and subject to the rules and regulations established by the mayor and city council and approved by the beer board of the City of Shelbyville, Tennessee. (1979 code, § 2-201, as amended by ord. No. 296, and replaced by Ord. #498, Nov. 1993, and Ord. #2015-955, March 2015)

2-202. Terms defined. The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

(1) "Adequate public notice" shall consist of publication of notice of a meeting, application or hearing scheduled by the beer board, either regular or special, in a newspaper of general circulation in the City of Shelbyville area.

(2) "Applicant" shall mean the person on whose behalf an applicant for beer permit is filed.

(3) "Beer" shall mean beer, ale, or other malt beverages, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101.¹

(4) "Certified clerk" shall mean a clerk who has successfully satisfied the training requirements contained in this chapter, and who has received certification from a responsible vendor training program.

(5) "City" shall mean the City of Shelbyville TN.

¹State law reference

Tennessee Code Annotated, § 57-6-102.

(6) "Clerk" shall mean any person working in a capacity to sell beer directly to consumers for off-premises consumption.

(7) "Commission" shall mean the Tennessee Alcoholic Beverage Commission.

(8) "Curb service" shall mean all sales transacted outside the building where the beer business is carried on. The intent of this provision is to ensure that the sale and purchase of beer takes place with the customer outside of the motor vehicle in a face-to-face meeting with the salesperson.

(9) The pronouns "he, him and his" shall refer to persons of the female as well as the male gender, as applicable.

(10) "Minor" shall mean any person who has not attained the age of twenty-one (21) years.

(11) "Person" shall mean any private individual, partnership, joint venture, corporation, and any other business entity or association.

(12) "Premises" shall mean on the property owned, leased, or controlled by the permittee and so connected with the beer business in which the permittee is engaged as to form a component or integral part of it, including, but not limited to, the building and the parking areas surrounding it. "Premises" includes all decks, patios and other well-defined outdoor serving areas that are contiguous to the exterior of the building in which the business is located, that are operated by the business and only for a business operating under the name identified in the permit.

(13) "Private club" shall mean an association that:

(a) Has members who pay regular dues for the privilege of membership, whether the club is organized or operated for profit or nonprofit purposes;

(b) Owns, hires, or leases a building or space therein for the exclusive use of its members and their invited guests, when accompanied by a member, and not otherwise open to the general public;

(c) Requires that a written application for membership be filed at least one (1) week before the applicant is admitted to membership;

(d) Keeps a current roster of members that shows the date each member filed an application for membership, the date each member was admitted to membership, the dates on which each member has paid membership fees, and the amount of membership fee paid on each date;

(e) Makes the roster of members available for inspection, during the hours the club is open, by members of the Shelbyville Police Department or any city official designated by the city council; and

(f) Applies for, receives, and holds a valid beer permit.

(14) "Responsible vendor" shall mean a vendor that has received certification from the commission pursuant to Tennessee Code Annotated, § 57-5-601, et seq.

(15) "Responsible Vendor Training Program" shall mean a training program related to the responsible sale of beer for off-premises consumption

which has met all the statutory and regulatory requirements set forth in Tennessee Code Annotated, § 57-5-601, et seq.

(16) "Show cause hearing" shall mean any hearing scheduled by the board for the purpose of allowing the permittee the opportunity to show cause as to why action should not be taken against the permittee.

(17) "Storage" shall mean the storing or possessing of beer or other alcoholic beverages for the purpose of resale by the permit holder. The practice by a private club of maintaining on its premises beer or other alcoholic beverages that have been brought there by a patron shall not constitute unlawful storing of alcohol in violation of any section of this chapter.

(18) "TABC" shall mean the Tennessee Alcoholic Beverage Commission. (1979 code, § 2-202, as replaced by Ord. #2015-955, March 2015)

2-203. Beer business lawful but subject to regulation. It shall be lawful for any person to transport, store, sell, distribute, possess, receive, or manufacture beer or other beverage of alcoholic content of not more than five percent (5%) by weight, in the city, subject, however, to all the applicable provisions of this chapter and of Tennessee Code Annotated, title 57, §§ 57-5-101, et seq. However, no brewer or wholesaler of any such beverage, or their agents, shall be permitted to make any loan or furnish any fixtures of any kind or have any interest, direct or indirect, in the business of any retailer of such beverages or in the premises occupied by such retailer. (1979 code, § 2-203, as amended by Ord. #498, Nov. 1993, and replaced by Ord. #2015-955, March 2015)

2-204. Beer board created. There is hereby created a board to be known and designated as the "Beer Board of the City of Shelbyville," which shall be hereafter referred to as the board, consisting of five (5) members. (1979 code, § 2-204, as replaced by Ord. #2015-955, March 2015)

2-205. Qualifications, compensation, and terms of board members. The members of the board shall be qualified voters of the city who have been bona fide residents in the city for at least one (1) year prior to election to membership on the board and who shall be at least twenty-one (21) years of age at the time of such election and are current residents of the City of Shelbyville. The members shall serve without compensation and, except for the initial members, shall hold office for a term of one (1) year from and after the date of their election and until their successors are elected and qualified. (1979 code, § 2-205, as replaced by Ord. #2015-955, March 2015)

2-206. Vacancies. When any vacancy occurs on the board by reason of death, resignation, removal, or other cause, such vacancy shall be filled by the mayor and council at the next succeeding regular meeting after such vacancy occurs. The person elected to fill such vacancy shall serve for the unexpired term

of the member whose office has been vacated. (1979 code, § 2-206, as replaced by Ord. #2015-955, March 2015)

2-207. Organizations, records, quorum, and meetings of the board. The members of the board shall elect one of their number to act as chairman. It shall be his duty to preside at all meetings of the board. A majority of the board shall constitute a quorum, and the board shall act by a vote of the majority of all its members only. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. The city recorder shall keep, in detail, accurate minutes and records of its action. The record shall be a public record and shall contain at least the following: the date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. The city recorder shall also maintain an up-to-date list of the names and addresses of all beer permit holders. The recorder shall also maintain on file all applications received. (1979 code, § 2-207, as replaced by Ord. #2015-955, March 2015)

2-208. Meetings. Meetings shall be held on the second Wednesday of each month at 6:00 P.M., or on a day and time decided by the majority of the beer board. Special meetings may be called by the chairman when necessary and proper to discharge effectively the duties of the board. All meetings shall be held in accordance with the state's open meeting law, § 8-44-101, et seq. All meetings shall be held in the courtroom of the Shelbyville Police Department unless public notice of alternate location given. (1979 code, § 2-208, as replaced by Ord. #2015-955, March 2015)

2-209. [Reserved.] (1979 code, § 2-209, as reserved by Ord. #2015-955, March 2015)

2-210. Powers and duties of the board. The board is hereby vested with full power and authority to hear, and is charged with the duty of hearing, all applications filed by persons, firms, corporations, or associations to sell, store, or manufacture beer. The board may revoke any permit, the issuance of which is herein provided for, and is fully authorized and empowered to hear and determine all complaints brought for this purpose. (1979 code, § 2-210, as replaced by Ord. #2015-955, March 2015)

2-211. Applications for beer licenses or permits. Any person who has complied with all applicable provisions of the state law and this chapter may apply for a license or permit to store, sell, distribute, consume or manufacture beer and other such beverages. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code

Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Shelbyville. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. To obtain such license or permit, such person shall first make application in writing, duly verified by oath, to the beer board for such license or permit, showing:

(1) Names and addresses of all persons, as defined in this chapter, with at least a five percent (5%) ownership interest in the applicant. The application shall include a copy of a government issued photo ID. An authorization and release for the city to obtain all relevant information to investigate and determine the applicants character, qualifications and suitability for the issuance of a permit hereunder:

(a) If the applicant is a partnership, a joint venture or a corporation, the private individual who signs the application shall indicate, in words, that the signature is a valid, binding legal signature "on behalf of" the business entity. By such signature, the partnership, the joint venture, or the corporation agrees to be bound by all regulations under this chapter and be liable for any violations thereof. Where it deems it to be appropriate, the beer board may require the applicant to furnish as a condition of approval certified copy of a resolution approved by the managing body of the business entity authorizing the individual signing the application on behalf of the business entity to obligate the entity.

(b) If the applicant will operate the business through an agent, the name and the address of the agent will be indicated. Any time the applicant/license changes agents, it shall notify the beer board in writing within thirty (30) days of the change and shall supply the name and address of the new agent. If applicant is a corporation, it shall indicate whether it is authorized to do business within the State of Tennessee.

(2) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer board has issued a permit or permits to such applicant;

(3) That no sale of such beverages will be made except in accordance with the permit granted;

(4) That the applicant understands it must secure a certificate or a statement from the health department or health officer that the premises which the application covers meet the requirements of § 8-223;

(5) That such person has complied with the state law and this chapter in all applicable respects;

(6) That neither such person nor any person in his employment has been convicted of any violation of the laws of the state or of the city against the possession, sale, manufacture, or transportation of intoxicating liquor or of any

crime involving moral turpitude within the last ten (10) years; and that such person will not, and agrees not to, at any time employ any such person;

(7) Whether such person applies for a permit or license to transport, store, sell, manufacture, or distribute such beverages, or for any or all such purposes, and whether at wholesale or retail;

(8) The place in the city where such person proposes to store, sell, distribute, or manufacture such beer or other beverage; and, if such person is already in business, the nature of his business and the place where such business is conducted;

(9) That the storage, sale, distribution, or manufacture of beer or such other beverage at any such place will not cause nor be likely to cause congestion of traffic or interference with schools, churches, or other places of public gathering or otherwise interfere with, injure, adversely affect, or be likely adversely to affect the public health, safety, and morals;

(10) That no sale of beer shall be made to minors by any such person or by any person in the employment or service of such person;

(11) That the applicant agrees to and will comply with all rules and regulations prescribed by this chapter for regulating the storage, sale, distribution, or manufacture of such beverages;

(12) Such other relevant information as the city recorder or city council may by order, rule, or regulation require to be stated in the application in order better to determine whether or not such permit or license should be issued.

(13) If the applicant does not own the property on which the business is to be located the applicant also should submit proof that the property owner does not object.

(14) Completed applications shall be filed by the last business day of the month preceding the next regular meeting of the beer board. (1979 code, § 2-211, as replaced by Ord. #2015-955, March 2015)

2-212. False statements in applications. Any applicant for a license or permit under the provisions of this chapter making any false statement in this written application shall forfeit his permit or license, if he already has a permit or license, and shall not be eligible to receive any permit or license for a period of ten (10) years thereafter. Any omission of information on an application shall be deemed as a false statement. (1979 code, § 2-212, as replaced by Ord. #2015-955, March 2015)

2-213. Board's action on applications. Applications for permits or licenses under this chapter shall be heard and disposed of by the board as soon as practicable after the filing of such applications. At the hearing on an application, the applicant shall have the right to be represented by counsel and shall establish the allegations of his application. The board shall be charged with the duty of fully determining the truth of the allegations of such application and may call or offer witnesses in opposition to the application. If the board is

satisfied upon such hearing that the allegations of the petition required to be stated therein by subsections (1), (2), (6), and (7) of § 2-208 are established by the proof and will be complied with by the applicant; that no false statement is made in the application; and that the storage, sale, distribution, or manufacture of such beverage, at the place or places stated in the application as the place or places where the applicant proposes to store, sell, distribute, or manufacture such beverages will not cause congestion in traffic or otherwise interfere with schools, churches, or other places of public gathering; or otherwise interfere with or injure the public health, safety, and morals; then said board shall issue a license or permit to the applicant for the purpose of storing, selling, distributing, or manufacturing such beverages, at, but only at, the place or places stated in the application. If the board is not so satisfied it shall deny the application and refuse the license or permit. If the application is made for a permit or license for more than one place the board may grant the application for one or more of such places, and deny the same as to the other places. Any fee shall be established by resolution of the city council. (1979 code, § 2-213, as replaced by Ord. #2015-955, March 2015)

2-214. Permit required for engaging in beer business and fees assessed.

(1) Permit required. No person shall engage in the storing, selling, distribution, giving away, or manufacturing of beer, or other beverages of like alcoholic content, within the corporate limits of the City of Shelbyville until that person shall receive a permit to do so from the beer board of the City of Shelbyville or the city recorder. Four (4) types of permits may be issued by the beer board:

(a) A retailer's "off premises" (package sales) permit shall be issued to any person engaged in the sale of packaged beer for consumption and where the beer sold is not to be consumed by the purchaser upon or near the premises of the seller;

(b) A retailer's "on premises" permit shall be issued to any person engaged in the sale of beer where the beer is to be consumed by the purchaser or his guest upon the premises of the seller;

(c) A single permit for both on- and off-premises sales may be issued to an applicant. Permits shall at all times be subject to all of the limitations and restrictions provided under this code and state law and the applicant shall certify that he has read and is familiar with the provisions of this chapter.

(d) A special event permit.

(2) Fee. All applications for the issuance of any type of beer permit shall be accompanied by an application fee as specified, comprehensive fees and penalties, for use in offsetting the expenses of investigating the applicant and processing the applicant. No portion of the fee shall be refunded to the applicant notwithstanding whether the application is approved. (1979 Code, § 2-214, as

amended by Ord. #710, March 2003, and replaced by Ord. #2015-955, March 2015)

2-215. License--hotels; motels; clubs, lodges. (1) Hotels; motels. Licenses may be issued to hotels and motels for the sale of beverages for consumption on the premises.

(2) Clubs; lodges. Licenses may be issued to clubs or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee and which are organized and exist for purposes other than the sale of beverages under such license. Limited to on-premises consumption. (1979 Code, § 2-215, as replaced by Ord. #702, Dec. 2002, and Ord. #2015-955, March 2015)

2-216. Special event permits. (1) The beer board is authorized to issue special event permits to bona fide charitable, nonprofit or political organizations for special events.

(2) The special event permit shall not be issued for longer than one forty-eight (48) hour period unless otherwise specified, subject to the limitations on the hours of sale imposed by law. The application for the special event permit shall state whether the applicant is a charitable, nonprofit or political organization, include documents showing evidence of the type of organization, and state the location of the premises upon which beverages shall be served and the purposes for the request of the license. An application fee for special events permits shall be established by resolution of the city council.

(3) For the purpose of this section:

(a) Bona fide charitable nonprofit organizations means any corporation which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code.

(b) Bona fide political organization means any political campaign committee as defined in Tennessee Code Annotated, § 2-10-101(a) or any political party as defined in Tennessee Code Annotated, § 2-13-101.

(4) No charitable, nonprofit, or political organization possessing a special event permit shall purchase, for sale or distribution, beer from any source other than a licensee as provided pursuant to state law.

(5) Failure of the special event permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of Shelbyville will result in a denial of a special event beer permit for the sale of beer for a period of one (1) year. (as added by Ord. #498, Nov. 1993, and replaced by Ord. #2015-955, March 2015)

2-217. [Reserved.] (1979 code, § 2-217, as reserved by Ord. #2015-955, March 2015)

2-218. Restrictions. (1) No permit shall be issued to sell any beverage coming within the provisions of this chapter:

(a) In violation of any provision of the state law or of this chapter.

(b) In violation of the Zoning Ordinance of the City of Shelbyville.

(c) When any requirement established in this chapter is not fully met.

(d) When any permit application fails to meet guidelines established by the beer board in its regulations for consideration and denial of any beer permit.

(2) The judgment of the beer board on such matters shall be final, except as same is subject to review at law, under Tennessee Code Annotated, § 57-5-108. (1979 code, § 2-218, as replaced by Ord. #2015-955, March 2015)

2-219. Appeals from the board's action. The provisions of Tennessee Code Annotated, title 57, § 57-5-109, et seq., shall govern all appeals from the actions of the board. (1979 code, § 2-220, as replaced by Ord. #2015-955, March 2015)

2-220. Licenses to be for specific locations, to be displayed, to be subject to revocation, and to be renewed annually. Each license or permit shall state on the face thereof the place or places for which it is granted or issued; shall not authorize the storage, sale, distribution, or manufacture of any such beverage at any other place whatsoever except by order of the board as hereinafter stated; shall be conspicuously displayed in the place of business of the applicant; shall at all times be subject to suspension or revocation as hereinafter stated; and shall be granted only for periods of one (1) year, upon the payment of all license fees and privilege taxes herein provided. Beer license or permits shall be renewed annually upon application therefore. A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, however, that notwithstanding the failure to return a beer permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business's name. (1979 code, § 2-221, as replaced by Ord. #2015-955, March 2015)

2-221. Transfer of licenses to different locations. Upon application, the board may authorize or deny to the holder of a license or permit under the provisions of this chapter the right to store, sell, distribute, or manufacture beer at some other place in the city, without paying additional license fees or privilege taxes, if the original period for which such license or permit is issued has not expired. (1979 code, § 2-222, as replaced by Ord. #2015-955, March 2015)

2-222. Beer licenses not to be issued when congestion of traffic, interference with schools, etc., will result. No license or permit to store, sell, distribute, or manufacture any beverage covered by this chapter, at any place or places in the city, shall be issued by the board to any person, when such storage, sale, distribution, or manufacture will cause or will be likely to cause (as determined by the board) congestion of traffic or interference with schools, churches, or other places of public gathering, or residential areas, or otherwise interfere with, injure, adversely affect, or be likely to interfere with, injure, or adversely affect the public health, safety, and morals, as hereinafter in this section more fully defined. The board is especially charged with the duty, upon application for such license or permit, to inquire into and determine whether or not the granting of such license or permit for the place or places stated in the application will cause, or be likely to cause, congestion of traffic or such interference or injury, or have, or be likely to have, such adverse effect. If it finds that such congestion of traffic or interference or injury or adverse effect will be caused, or is likely to be caused, it shall deny such application. The board shall presume conclusively that the issuance of a license for on premises consumption of beer for a location adjacent to residentially zoned property would be likely to have an adverse effect upon the residential area, and it shall deny the application; provided however, this conclusive presumption shall not apply where the permit or license holder would otherwise be entitled to sell alcoholic beverages for on-premises consumption under Tennessee Code Annotated, § 57-4-101.

The board, in determining whether or not such storage, sale, distribution or manufacture of any such beverage at any place or places for which a license or permit is applied for, will cause or be likely to cause congestion of traffic, or interference with schools, churches, or other places of public gathering, or residential areas, or will interfere with, or be likely to interfere with, injure, or adversely affect the public health, safety, and morals, shall give consideration to the following, among other facts, conditions and circumstances:

The proximity of such places to schools, churches, or other public places; whether such place or places are in a business or residential section of the city and the general nature of the neighborhood in which such place or places are situated together with the probable effect upon the public health, peace, quiet, rest, sleep, safety, and morals; the amount, condition, and effect of traffic, both pedestrian and vehicular, at, by, or near such place or places; whether or not the storage, sale, distribution, or manufacture of such beverage at such place or places would be likely adversely to affect the full but usual prior use, occupation, and enjoyment of property in the same locality; whether or not the storage, sale, distribution, or manufacture of such beverage at such place or places would be likely to cause unusual or large congestion of persons or unusual noises and disturbances, or would be likely to disturb the peace, quiet, rest, or sleep of citizens; whether or not the city police, giving due consideration to the number of police on the city's police force and to the location of such place or places in

reference to the location of police headquarters, the public square, and the fire zone, can adequately patrol and police such place or places; whether or not such place or places are situated in a locality adjacent to or near any bawdy house or house of ill-fame or adjacent to or near a house reputed to be a bawdy house or house of ill-fame; the number and location of other places in the same neighborhood or locality for which licenses or permits to store, sell, distribute, or manufacture beer have been issued by the city; the experience of the city with any other place or places in the same locality or neighborhood where such beverage is then or has previously been stored, sold, distributed or manufactured, with reference to the effect thereof upon traffic, schools, churches, or other places of public gathering, and upon the public health, safety, quiet, peace, rest, sleep and morals, and especially with reference to whether or not the operation of any such other place in the same locality or neighborhood has previously created disturbances and disorders and whether or not such places have been frequented by drunks, or persons of bad reputation or public prostitutes, or have been the scene of fights, brawls, or killings; and any other fact, condition, or circumstance that would be relevant to the inquiry. The enumeration of the foregoing facts, conditions, and circumstances shall not be construed as exclusive. The board is expressly authorized and required to take into consideration all facts, conditions, and circumstances, whether so enumerated or not, that may be relevant upon the inquiry as to whether or not the storage, sale, distribution, or manufacture of any such beverage at any such place or places will cause or be likely to cause congestion of traffic, or interference with schools, churches, other places of public gathering, or residential areas, or will interfere with, or be likely to interfere with, injure, or adversely affect, the public health, safety and morals. (1979 code, § 2-223, as replaced by Ord. #2015-955, March 2015)

2-223. [Reserved.] (1979 Code, § 2-224, as amended by Ord. #304, and Ord. #702, Dec. 2002, and reserved by Ord. #2015-955, March 2015)

2-224. Wholesale beer tax. Pursuant to the authority in Tennessee Code Annotated, § 57-6-103, there is hereby imposed on the sale of beer at wholesale within the city a tax of seventeen percent (17%) of the wholesale price.¹ (1979 code, § 2-228, as replaced by Ord. #2015-955, March 2015)

2-225. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company,

¹State law reference

Local enforcement of wholesale beer tax law: Tennessee Code Annotated, § 57-6-113.

syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Shelbyville, 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. (1979 code, § 2-229, as replaced by Ord. #2015-955, March 2015)

2-226. Sales to minors prohibited. No person engaging in the business regulated in this chapter shall make or permit a sale of any beverage covered by this chapter to minors. (1979 code, § 2-230, as replaced by Ord. #2015-955, March 2015)

2-227. Employment of and loitering of minors prohibited. It shall be unlawful for any person engaging in any business regulated in this chapter to allow any minor to loiter about his place of business. The burden of ascertaining the age of minor customers shall be upon the owner or operator of such place of business. (1979 code, § 2-231, as replaced by Ord. #2015-955, March 2015)

2-228. [Reserved.] (1979 code, § 2-232, as reserved by Ord. #2015-955, March 2015)

2-229. Ex-convicts not to be licensed or employed. Neither the applicant for a license or permit under this chapter nor any person employed by him in the storage, sale, distribution or manufacture of any beverage covered by this chapter, shall be a person who has been convicted of any violation of the laws of the state or of the city against the possession, sale, manufacture or transportation of intoxicating liquors, or any crime involving moral turpitude within the past ten (10) years. (1979 code, § 2-233, as replaced by Ord. #2015-955, March 2015)

2-230. Compliance with state law required. Neither the applicant for a license or permit under this chapter nor any person in his employment shall conduct any business regulated by this chapter in violation of any of the terms and provisions of Tennessee Code Annotated, title 57, §§ 57-5-101, et seq. Any person who violates or fails to comply with any provision of such act or this chapter shall be guilty of a misdemeanor. No permit or license shall be issued to authorize any person to engage in any business regulated in this chapter in any case expressly prohibited by the act mentioned in this section. (as added by Ord. #498, Nov. 1993, and replaced by Ord. #2015-955, March 2015)

2-231. Intoxicating liquor. No person engaging in any business regulated in this chapter, or any person in his employment, shall possess, sell, dispense, or give away any intoxicating liquor in violation of the laws of the state or of the

city, at his place of business or on the premises thereof. (as added by Ord. #2015-955, March 2015)

2-232. Hours of sale. It shall be unlawful and a misdemeanor for any person to sell or offer for sale, or to give away or serve, or for any person to buy or offer to buy, or to accept as a gift, or to be served, or to consume any beverage covered by this chapter at any place for which a license or permit has been issued by the city as provided in this chapter between 3:00 A.M. and 8:00 A.M. Monday through Saturday. Sunday sale hours shall be limited from 12:00 P.M. to 3:00 A.M. (as added by Ord. #2015-955, March 2015)

2-233. [Reserved.] (as reserved by Ord. #2015-955, March 2015)

2-234. [Reserved.] (as reserved by Ord. #2015-955, March 2015)

2-235. Drugs on premises. It is unlawful for any person to bring, to cause or to allow onto any permitted premises under this chapter any prohibited drugs within the meaning of Tennessee Code Annotated, §§ 53-10-101, et seq., and 39-17-401, et seq. (as added by Ord. #2015-955, March 2015)

2-236. Enforcement. The city manager, or city recorder as his designee, shall have full power to enforce the provisions of this chapter and to investigate reported violations thereof. The city manager is hereby authorized to utilize the full facilities of the Shelbyville Police Department and such other investigative agencies of the city as the city manager may deem proper.

The city manager and the SPD shall have the right of entrance on any business premises covered by a permit issued under this chapter during normal business hours for the purpose of investigation and inspection for compliance with the provisions of this chapter. (as added by Ord. #2015-955, March 2015)

2-237. Suspension or revocation of license or permit. Any license or permit issued under the provisions of this chapter may be suspected or revoked at any time by the board for any of the following reasons:

(1) For any violation of, or failure at any time to comply with the provisions of this chapter or any provisions of the acts mentioned herein; or if the board believes or has reason to believe that such person has been or is guilty of any such violation or failure to comply; or

(2) For violation of any penal provision of this chapter or any other penal provision of this code or of any other ordinance of the city, now or hereafter in force or effect, or if the board believes or has reason to believe that such person has been or is guilty of any such violation; or

(3) If it is found or believed by the board, or if it has reason to believe, that such person is not or has ceased to be a person entitled to a license or

permit to engage in any business regulated under this chapter or as regulated under this or any subsequent ordinance of the city; or

(4) If it is found or believed by the board, or if it has reason to believe, that such person is conducting or has conducted any of the businesses herein regulated in violation of or contrary to any provisions of this chapter, or at any place, or for any purpose, or in any manner other than as stated in his application for such license or permit or in such license or permit; or

(5) If it is found or believed by the board, or if it has reason to believe, that such business engaged in as authorized by such license or permit is causing, or has caused, or in the future will be likely to cause congestion of traffic, or interference with schools, churches, or other places of public gathering, or other interference with, or injury to, or adverse effect upon the public health, safety, and morals, as hereinbefore in this chapter more fully defined. It shall be unlawful and a misdemeanor during the period of suspension or revocation for such person to engage in any such business. Complaints brought for the purpose of revoking permits shall be made in writing and filed with the chairman of the board. He shall thereupon give or cause to be given written notice, accompanied by a copy of the written complaint, commanding the person, persons, firm, corporation, or association to appear at a time and place designated in the notice before the board and show cause why the permit should not be revoked. The notice shall be served by any policeman of the city at least five (5) days prior to the date of the hearing. Upon the hearing the board shall publicly hear and determine the nature and merits of the complaint and for this purpose the chairman of the board is authorized to compel the attendance of witnesses by subpoena. The board shall have authority on its own motion to institute complaints or to serve notice on the holder of any permit to show cause why his permit should not be revoked for specified reasons set forth in writing. Such hearings shall follow the same procedure as hereinabove outlined for other complaints. Upon final hearing and determination by the board at such hearings, either party may remove the cause by certiorari to the next term of the circuit court of the county as provided by Tennessee Code Annotated, title 57, § 57-5-109, et seq. All hearings under this section shall have public notice of meeting time and place. (as added by Ord. #2015-955, March 2015)

2-238. Forfeiture of license fees, etc. There shall be no rebate or adjustment made of the license fees or privilege taxes. The same shall be forfeited in case of the revocation or suspension of any license. (as added by Ord. #2015-955, March 2015)

2-239. Additional rules and regulations. The issuance of a license or permit under this chapter shall be subject to revocation at any time as in this chapter provided, and subject to such further, different, and additional rules and regulations as may be from time to time prescribed. The right is hereby reserved to impose any such additional or different rules and regulations on the business

of storing, selling, distributing, or manufacturing beer as the city council may hereafter pass or adopt and to revoke or suspend any license or permit in case of any noncompliance with such additional or different rules and regulations. However, a reasonable time shall be allowed every person to comply with any additional or different rules and regulations before revoking or suspending his license or permit for failure to comply therewith. (as added by Ord. #2015-955, March 2015)

2-240. Penalty. Any person who shall violate or fail to comply with any provision in this chapter shall be guilty of a misdemeanor and shall, upon conviction, unless otherwise provided by this chapter, be punished as provided in the general penalty clause for this code. (as added by Ord. #2015-955, March 2015)

2-241. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (as added by Ord. #2015-955, March 2015)

CHAPTER 3

ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES

SECTION

2-301. Privilege tax levied.

2-302. City recorder to insure city receives its share.

2-301. Privilege tax levied. Pursuant to the authority of Tennessee Code Annotated, section 57-4-301 there is levied on every person who engages in the business of selling at retail in the City of Shelbyville alcoholic beverages for consumption on the premises, an annual privilege tax as follows:

- | | | |
|-----|---|---------|
| (1) | Private Club | \$300 |
| (2) | Hotel and motel | \$1,000 |
| (3) | Convention center | \$500 |
| (4) | Premier type tourist resort | \$1,500 |
| (5) | Restaurant, according to seating capacity, on licensed premises | |
| | (a) 75-125 seats | 600 |
| | (b) 126-175 seats | 750 |
| | (c) 176-225 seats | 800 |
| | (d) 226-275 seats | 900 |

If a restaurant is licensed by the ABC to sell wine only under Tennessee Code Annotated, section 57-4-101(n), the privilege tax imposed shall be one-fifth (1/5) the amount specified in (5) above.

- | | | |
|------|--|-------|
| (6) | Historic performing arts center | 300 |
| (7) | Urban park center | 500 |
| (8) | Commercial passenger boat company | 750 |
| (9) | Historic mansion house site | 300 |
| (10) | Historic interpretive center | 300 |
| (11) | Community theater | 300 |
| (12) | Zoological institution | 300 |
| (13) | Museum | 300 |
| (14) | Establishment in a terminal building of a commercial air carrier airport | 1,000 |
| (15) | Commercial airline travel club | 500 |
| (16) | Public aquarium | 300 |

(as added by Ord. #564, Feb. 1997)

2-302. City recorder to insure city receives its share. It shall be the responsibility of the city recorder to insure that the city receives its share of the fifteen percent (15%) tax levied on the gross sales of all alcoholic beverages sold at retail for consumption on premises and collected by the commissioner of the ABC under Tennessee Code Annotated, section 57-4-301(c), and distributed to

Change 11, April 9, 2015

2-23

the state and its political subdivisions under Tennessee Code Annotated, section 57-4-306. (as added by Ord. #564, Feb. 1997)

CHAPTER 4

"BROWN-BAGGING"

SECTION

2-401. Definitions.

2-402. Regulations.

2-403. Violations and penalty.

2-404. Punishment for violations.

2-401. Definitions. (1) "Alcoholic beverages" shall mean and include alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits or wine and capable of being consumed by a human being, other than patented medicine or beer where the latter contains more than five percent (5%) by weight, or less. Notwithstanding any provision to the contrary in this title, "alcoholic beverage" or "beverage" also includes any liquor product containing distilled alcohol capable of being consumed by a human being manufactured or made with distilled alcohol irrespective of alcoholic content.

(2) "Beer" shall mean all beers, ales and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #565, § 1, Jan. 1997)

2-402. Regulations. (1) No owner, operator or employee of any business establishment, that does not have a valid beer permit, shall permit or allow any person to open, or to have open, or to consume inside or on the premises a bottle, can flask or container of any kind or description, of alcoholic beverages or beer.

(2) No owner, operator or employee of any business establishment possessing a valid beer permit shall permit or allow any person to open, or to have open, or to consume inside or on the premises a bottle, can, flask or container of any kind or description, of alcoholic beverages or beer, except such beer that is sold on the premises.

(3) This section shall not apply to any business establishment possessing a valid permit for the on premises sale of alcoholic beverages issued by the state Alcoholic Beverage Commission. (Ord. #565, § 2, Jan. 1997)

2-403. Violations and penalty. Any violation of this chapter by the owner, operator or employee of a business establishment not possessing a valid permit issued by the City of Shelbyville for the on-premises sale of beer shall be punishable by monetary penalty of up to \$500.00. (Ord. #565, § 3, Jan. 1997)

2-404. Punishment for violations. Any violation of this chapter by the owner, operator or employee of a business establishment possessing a valid permit for the on-premises sale of beer shall be subject to punishment as

Change 11, April 9, 2015

2-25

provided for other violations of the beer ordinance, including but not limited to, suspension or revocation of the beer permit. (Ord. #565, § 4, Jan. 1997)

TITLE 3

ANIMALS AND FOWLS

CHAPTER

1. IN GENERAL.
2. DOGS.

CHAPTER 1

IN GENERAL

SECTION

- 3-101. Running at large.
- 3-102. Livestock dealings on streets.
- 3-103. Keeping hogs within city.
- 3-104. Location of pens, etc., of livestock traders.
- 3-105. Pens or enclosures to be kept clean.
- 3-106. Adequate food, water, and shelter, etc., to be provided.
- 3-107. Keeping in such manner as to become a nuisance.
- 3-108. Cruel treatment.
- 3-109. Appointment of a poundmaster.
- 3-110. Impoundment and disposition of animals.
- 3-111. Disposition of proceeds of sale.
- 3-112. Impoundment and maintenance charges.
- 3-113. Poundmaster to keep impounded animals or contract for feeding, etc.
- 3-114. Poundmaster clothed with police powers.
- 3-115. Quarantines.

3-101. Running at large. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, cats or any other animals, or any chickens, ducks, geese, turkeys, birds, or any other fowl, domestic or otherwise, or any reptile of any kind, to knowingly or negligently allow or permit any of them to run at large upon any street, alley, unenclosed lot, or upon any neighbor's land within the corporate limits. (1979 code, § 3-101, as replaced by ord. No. 305)

3-102. Livestock dealings on streets. It shall be unlawful for any person to load, unload, sell, purchase, or offer to sell or purchase, any livestock of any kind upon any of the public streets, squares, or other thoroughfares of the city. (1979 code, § 3-102)

3-103. Keeping hogs within city. It shall be unlawful for any person to keep or maintain any hog or hog pen within the city except that the provisions

of this section shall not apply to dealers in hogs who shall be permitted to maintain hog pens in certain restricted areas of the city as set forth in the next section. (1979 code, § 3-103)

3-104. Location of pens, etc., of livestock traders. It shall be unlawful for any person trading in livestock to maintain or operate any yard, pen, or other place in the city where any hogs, cattle, or sheep are kept except within the areas where such uses are permitted under the terms and provisions of the zoning ordinance of the city. (1979 code, § 3-104)

3-105. Pens or enclosures 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. (1979 code, § 3-105)

3-106. Adequate food, water, and shelter, etc., to be provided. No animal or fowl of any kind shall be kept or confined in any place where the food, water, shelter and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended. (1979 code, § 3-106)

3-107. Keeping in such manner as to become a nuisance. No animal or fowl shall be kept in such a place or condition as to become a nuisance either because of noise, odor, contagious disease, or other reason. (1979 code, § 3-107)

3-108. Cruel treatment. it shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any dumb animal or fowl. (1979 code, § 3-108)

3-109. Appointment of a poundmaster. It shall be the duty of the city manager to appoint a poundmaster of the city who shall be in charge of the city pound. (1979 code, § 3-109)

3-110. Impoundment and disposition of animals. It shall be the duty of the poundmaster of the city to take up and impound all animals and fowl found running at large in violation of any provision of this chapter.

Upon the impounding of any such animal or fowl, the poundmaster shall notify the owner thereof, if known. If such owner does not redeem his animal or fowl from the pound and pay the impoundment fee and maintenance charges on the same within five (5) days after due notice from the poundmaster, the animal or fowl shall be sold by the poundmaster after five (5) days' notice of the place and day of sale. All such sales shall be for cash and the proceeds shall be disposed of as hereinafter provided. In case of the impoundment of any animal or fowl of unknown ownership, it shall be sold after giving ten (10) days' notice

by advertisement, in a newspaper of general circulation within the city, of its description and the time and place of its sale. The proceeds of such sale, after payment of the costs of advertising, shall be disposed of as hereinafter provided. (1979 code, § 3-110)

3-111. Disposition of proceeds of sale. All sums arising from the sale of any animal or fowl as hereinbefore provided, after paying the impoundment fee, maintenance charges, and cost of making the sale, shall be paid to the owner, if known. If the owner is not known, the unclaimed remainder shall be turned over to the city treasurer who shall hold such sums subject to the claim of the proper owner.

All such moneys remaining in the hands of the city treasurer for a period of twelve (12) months shall be forfeited to the use of the city. The city treasurer shall report all such forfeitures, separately from the other funds in his hands, to the city council. (1979 code, § 3-111)

3-112. Impoundment and maintenance charges. An impoundment fee and charge for the maintenance of impounded animals and fowl shall be charged in accordance with a schedule approved by the city council.

The poundmaster shall accept these fees in full satisfaction of all claims for impoundment and maintenance of impounded animals and fowl.

These charges shall be paid out of the proceeds of any sale of an impounded animal or fowl or by any owner redeeming his impounded animal or fowl. (1979 code, § 3-112)

3-113. Poundmaster to keep impounded animals or contract for feeding, etc. The poundmaster shall properly and safely feed and keep all animals and fowl impounded under the provisions of this chapter or he may contract with any competent person for their feeding and keeping. (1979 code, § 3-113)

3-114. Poundmaster clothed with police powers. For the purpose of enforcing the provisions of this chapter, the poundmaster shall be clothed with police powers. (1979 code, § 3-114)

3-115. Quarantines. The city council by resolution, or the health department by giving three (3) days' notice in any newspaper in the city, may declare a period of quarantine of dogs or any other domestic animals when it is reasonably believed that an epidemic of rabies is threatened. During such period dogs or such other domestic animals shall be kept in absolute confinement or subject to such other regulations as may be prescribed. It shall be unlawful for any person to violate the terms of any such quarantine. (1979 code, § 3-115)

CHAPTER 2

DOGS AND CATS

SECTION

- 3-201. Definitions.
- 3-202. Authority of animal control officers.
- 3-203. Inoculation required.
- 3-204. Prohibited acts.
- 3-205. Animal treatment.
- 3-206. Dangerous dogs.
- 3-207. Impoundment of dogs.
- 3-208. Impounded dog procedures.
- 3-209. Abatement of nuisance.
- 3-210. Violations; penalty.
- 3-211. Severability.

3-201. Definitions. The following "definitions" shall apply to words and phrases in this chapter:

(1) "Animal control officer" includes officials designated as such by the city manager, or officials designated as "rabies control officers."

(2) "At large" means to be off the premises of the owner and not under the control of the owner or a competent individual by leash.

(3) "Attack" means to chase or approach a person or domestic animal in a menacing or threatening manner or apparent attitude of aggression off of the property, of its owner or custodian. "Attack" does not include actions by an animal in defense of itself or its owner or custodian against aggression by a person or another animal.

(4) "Authorized persons." Authorized persons shall mean the rabies control officer, animal control officer, city manager, city police officers, or public health officers.

(5) "Dangerous dog" means any dog that meets the definition in § 3-206 of this chapter.

(6) "Declared dangerous dog" means any dog that has been found to meet the definition of a dangerous dog and has been declared so by the owner, through a signed waiver of admission, or by the declaration of a court of competent jurisdiction.

(7) "Domestic animal" means any animal that may be legally possessed by a person and is commonly kept as a pet in or around a residence, outbuildings, or business. Domestic animals include dogs, cats, birds, snakes, small rodents, rabbits, chickens (including roosters), ducks and other fowl which can be and are kept or raised in a home or lot. Animals not considered domestic animals are horses, cows, donkeys, goats, sheep and any endangered or exotic species of animal.

(8) "Impoundment" means the placement of an animal in the custody of the animal control department or an animal shelter, or with a veterinarian under the supervision of the animal control officer.

(9) "Nuisance." A dog or cat shall be considered a "nuisance" within the meaning of this chapter if it runs at large, attacks people or other animals, bites, attempts to bite, causes unsanitary or offensive conditions, chases pedestrians or moving vehicles, rummages through receptacles for trash and garbage, disturbs the peace and quiet of any neighborhood by loud and frequent barking, whining or howling, or otherwise creates disturbances of the peace, safety and quiet of any person(s).

(10) "Officer" includes any official with the power and authority of an officer of the peace, including the rabies control officer or animal control officer, who shall have such authority as an officer of the peace in relation to the necessary and proper carrying out of his duties as animal control officer.

(11) "Owner" means any person or entity that has a property right in an animal, or keeps or harbors an animal, or has an animal in his or her custody for five (5) or more days when the true owner of the animal is unknown to such person, or by agreement with the true owner of the animal has the animal in his or her care or acts as a caretaker or custodian of the animal, "owner" does not include the city or the county or any non-profit animal welfare agency that operates an animal shelter facility in an area zoned for such use.

(12) "Proper enclosure" means a place in which a dog is securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of children under the age of twelve (12) and designed to prevent the dog from escaping. Such enclosure must have secure sides, and if it has no bottom secured to the sides, the sides must be embedded into the ground no less than two (2) feet. The enclosure shall provide protection for the dog from the elements and be of a suitable size for the dog. (1979 Code, § 3-201, as replaced by Ord. #295, §§ 1 and 7, and Ord. #821, June 2007)

3-202. Authority of animal control officers; bond. (1) Animal control officers of the City of Shelbyville, Tennessee, are hereby granted authority to enforce the provisions of this chapter and to issue citations and summons, and serve warrants for violations of this chapter and are hereby authorized to carry firearms to protect themselves if necessary from rabid or "dangerous" dogs as herein defined. They are also authorized to enter private premises in connection with alleged violations of this chapter and to capture dogs in violation of same.

(2) Animal control officers, before they enter upon their duties as provided herein, shall post with the city recorder an indemnity bond in the amount of five thousand dollars (\$5,000.00) payable to the City of Shelbyville, Tennessee. (1979 Code, § 3-201, as replaced by Ord. #295, §§ 2 and 7, and Ord. #821, June 2007)

3-203. Inoculation required. Dogs and cats shall be vaccinated as required by Tennessee Code Annotated, § 68-8-104. Proof of current vaccination shall be maintained by the owner or custodian of the animal, and provided to the animal control officer on demand. (1979 Code, § 3-203, as replaced by Ord. #295, §§ 3 and 7, and Ord. #821, June 2007)

3-204. Prohibited acts. The following acts are prohibited in the City of Shelbyville:

(1) Running at large. It shall be unlawful for any person negligently, willfully, or knowingly to permit any dog or cat under his or her ownership, custody, or control to go unrestrained upon the premises of another without the permission of the property owner or other person in control of the property or upon any public street or sidewalk or other public property in the city. Any dog or cat found running at large in violation of this section is declared to be a nuisance and is liable for impoundment and disposal as provided for in this chapter. Nothing in this section shall prohibit any dog or cat from appearing upon any street or other public place in the city if such dog or cat is under the full control of the owner or attendant by being held with a chain, strap, rope, or other leash of sufficient strength to prevent escape.

(2) Nuisance dogs and cats. It shall be unlawful for any person negligently, willfully, or knowingly to:

(a) Permit an animal to run at large, attack people or other animals, bite or attempt to bite any person;

(b) Maintain unsanitary or offensive conditions which result in offensive odors or are dangerous to the animal or the public health;

(c) Maintain a dog or cat that is diseased or dangerous to the public health;

(d) Permit a dog or cat to chase pedestrians or moving vehicles, rummage through receptacles for trash and garbage; or

(e) Permit any dog or cat to disturb the peace and quiet of any neighborhood by loud and frequent barking, whining or howling, or otherwise permit dog or cat behavior which results in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises or the peace, safety and quiet of any person(s).

(3) Multiple dogs out of doors. It shall be unlawful to keep, lodge or maintain domestic animals out of doors except in compliance with § 3-116 of this code.

(4) Mistreatment of animals. It shall be unlawful to mistreat an animal in violation of § 3-205.

(5) Dangerous dogs. It shall be unlawful to keep, maintain, or harbor a dangerous dog in violation of this chapter, or to have the custody of or own or possess a dangerous dog unless such person is in full compliance with all restrictions placed upon such person by the court that has designated such dog as a dangerous dog.

(6) Concealing dogs or cats. It shall be unlawful for any person to hide, conceal or aid or assist in hiding or concealing any dog owned, kept or harbored in violation of any provisions of this chapter.

(7) Sale or gifting of animals. It shall be unlawful for any person to display in public places within the city limits cats, dogs, or other domestic animals for the purpose of giving them away or selling them. Public places shall include, but not limited to shopping centers, storefronts, street corners, sidewalks, and businesses; provided however, this provision shall not apply to licensed dealers under §§ 44-17-101, et seq., at their place of business, or to the Shelbyville Bedford County Humane Association, Bedford County Animal Control, or Shelbyville Animal Control offering animals for adoption in compliance with Tennessee Code. Nothing in this section shall prevent a person from selling or giving away cats, dogs, or other domestic animals owned by that person from their own residence. (1979 Code, § 3-204, as replaced by Ord. #295, §§ 4 and 7, and Ord. #821, June 2007, and amended by Ord. #855, July 2008)

3-205. Animal treatment. (1) Every owner or keeper of a dog or cat shall see that such animal:

(a) Is kept in a clean, sanitary, and healthy manner and is not confined so as to be forced to stand, sit or lie in its own excrement;

(b) Has food that is appropriate for the species in adequate amounts to maintain good health, fresh potable drinking water, shelter and ventilation, including quarters that are protected from excessive heat and cold and are of sufficient size to permit the animal to exercise and move about freely;

(c) Is protected against abuse, cruelty, neglect, torment, overload, overwork, or any other mistreatment;

(d) Has reasonably necessary medical care, in addition to the required rabies vaccination, which shall include recommended vaccinations as required by accepted veterinary standards, and if diseased or injured or exhibiting symptoms of disease, receives proper care and is segregated from other animals so as to prevent transmittal of the disease;

(e) Is maintained in compliance with all applicable federal, state and local laws and all regulations respecting animal care and control as are adopted by the city and in effect from time to time.

(2) No animal shall be tethered by use of a choke collar, or on any collar too small for the size and age of the animal, or by any rope, chain, or cord directly attached to the animal's neck or by a leash less than ten (10) feet long, or by any leash or tether without swivels on both ends, or of such unreasonable weight as to prevent the animal from moving about freely.

(3) Where more than one (1) animal is kept in an enclosure out of doors, the animals may not be tethered or chained facing one another with less than a ten (10) foot separation between them when the tethers are fully

extended. (1979 Code, § 3-205, as replaced by Ord. #295, §§ 5 and 7, and Ord. #821, June 2007)

3-206. Dangerous dogs. (1) Dangerous dog defined. A dangerous dog is any dog:

- (a) With a known propensity or disposition, or whose conduct indicates same, to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or
- (b) That would cause a danger to human life or property if not kept in the manner required by this chapter; or
- (c) That has caused injury to a person without having been provoked by that person; or
- (d) At a place other than the owner's or keeper's property has:
 - (i) Chased or approached a person in a menacing manner or apparent attitude of attack; or
 - (ii) Attacked another domestic animal; or
- (e) Because of its training or behavior is capable of inflicting harm or death to humans; or
- (f) Has been owned, possessed, kept, used or trained in violation of Tennessee Code Annotated, § 39-14-203, or any subsequent statute; or
- (g) Has been declared by a court of competent jurisdiction to be a dangerous or vicious dog.

(2) Exemptions. No dog may be declared dangerous as a result of injury or damage if, at the time of injury or damage, the victim of the injury or damage was:

- (a) Committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog;
- (b) Teasing, tormenting, abusing or assaulting the dog; or
- (c) Committing or attempting to commit a crime.

No dog may be declared dangerous if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack. No dog may be declared dangerous if an injury or damage was sustained by a domestic animal, which, at the time of the injury or damage, was teasing, tormenting, abusing or assaulting the dog.

(3) Confinement and restraint. The owner or custodian of any dog known by its owner or custodian to be a dangerous dog shall not allow or permit the dog to go unconfined in a proper enclosure unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of an adult. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(4) Signs. The owner of a dog known to be a dangerous dog shall display at all entry points on his or her premises a clearly visible warning sign

indicating that there is a dangerous dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal. The sign shall be made with reflective letters not less than 1.5 inches in width and 1.5 inches in height and reading "Beware of Dangerous Dog."

(5) Citation based on sufficient cause. If an animal control officer or a law enforcement officer has investigated and determined that there is sufficient cause to believe a dog is dangerous, as defined herein, a civil warrant shall be issued and served upon the owner to appear in the City Court of Shelbyville for the purpose of determining whether or not the dog in question should be designated as a dangerous dog. The initial hearing should be scheduled not less than five (5) days or more than fifteen (15) days after service of the civil warrant upon the owner or keeper of the dog.

(6) Two or more dogs. If two (2) or more dogs jointly engage in any conduct described in this section, thus rendering proof of the individual dog that inflicted the particular injury difficult to ascertain, then regardless of the degree of participation by the individual dog(s), all such dogs shall be deemed dangerous dogs.

(7) Transfer of ownership prohibited. It shall be unlawful for any person who has been served with a citation to appear in a court of competent jurisdiction for the purpose of determining whether such person's dog should be designated as a dangerous dog to transfer ownership of such dog until after the court has issued a ruling on such citation. It shall be unlawful for any person whose dog has been designated as a dangerous dog to transfer ownership of such dog to another person without:

(a) Having advised such other person that the dog has been designated as a dangerous dog; and

(b) Having advised such other person in writing of the restrictions that have been placed upon such dog.

(8) Court imposes restrictions. Upon designating a dog as a dangerous dog, the court shall impose the restrictions on the owner of such dog as set forth in this chapter and may impose such additional restrictions as are appropriate under the circumstances of the case. The court shall reduce such restrictions to writing and have them served on the respondent. If the owner or keeper of the dog(s) is absent from the hearing, he or she shall be notified by the court in writing of the decision of the court and of any restrictions imposed upon the respondent, either personally through animal control or by first-class mail, postage prepaid. If a dog is declared to be dangerous, the owner or keeper shall comply with all restrictions imposed by this chapter and by the court.

(9) Mandatory restrictions for dangerous dogs. Once the court of competent jurisdiction designates the dog as a dangerous dog, the following shall be restrictions that are mandatory upon the owner or custodian of such dog:

(a) The dog must be kept securely confined indoors, within an automobile or other vehicle, or confined in a securely enclosed and locked

pen or structure upon the premises of the owner of such dog. Such pen or enclosure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than two (2) feet.

(b) The owner must allow inspection of the dog and its enclosure by animal control and must produce, upon demand, proof of compliance with such restrictions.

(c) In the event that the owner or custodian of the dog is a tenant on real property where the dog is being kept, the owner or custodian must obtain written permission, to be filed with the animal control department, to keep the dog on certain specified premises from the landlord or property owner.

(d) The owner or custodian shall post a sign having reflective letters and backing with letters measuring at least 1.5 inches in width and 1.5 inches in height and reading "Beware of Dangerous Dog" in a conspicuous place at all entrances to the premises on or within which such dog is kept.

(e) A dangerous dog shall not be permitted to leave the premises of the owner unless such dog is properly restrained and humanely muzzled for protection of persons and other animals.

(f) A dangerous dog may never, even with the owner present, be allowed to be unrestrained on property that allows the dog direct access to the public.

(g) The owner of a dangerous dog shall not permit such a dog to be chained, tethered or otherwise tied to any inanimate object such as a tree, post or building, inside or outside of its own separate enclosure.

(h) The owner of the animal or owner of the premises on which the animal is kept shall obtain and maintain public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death, or damage to personal property of, any person which may result from the owning, possessing, keeping or maintaining of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the city recorder.

(i) The owner or custodian shall have an identification microchip implanted in the dog, and provide the identification number of the chip to the animal control office.

(j) The owner of such dog shall register the dangerous dog with the animal control department, and provide and maintain a record that lists the dog owner(s) or agent contact information, emergency contact persons and phone numbers, veterinarian, landlord or property owner contact information, property/liability insurance carrier, vaccination, licensing and permit number, photo of the animal and any other information deemed necessary by animal control.

(k) Any other reasonable requirement specified by the court.

(10) Removal of designation of dangerous dog. No sooner than twelve (12) months after a court of competent jurisdiction has designated a dog a dangerous dog, the owner may petition animal control for a review of the circumstances of the dog and for a report for the court, and may thereafter petition the court to remove the designation upon a showing that changes in circumstances or measures taken by the owner or keeper, such as training of the dog, training of the owner, confinement, etc., have mitigated the risk to the public safety.

(11) Impoundment of dogs threatening public safety. (a) If upon investigation it is determined by the animal control officer or law enforcement officer that probable cause exists to believe a dog poses an immediate threat to public safety, then the animal control officer or law enforcement officer may immediately seize and impound the dog pending a hearing to be held pursuant to this chapter. At the time of an impoundment pursuant to this subsection or as soon as practicable thereafter, the officer shall serve upon the owner or custodian of the dog a notice of hearing to be held pursuant to this chapter to declare the dog dangerous.

(b) Any animal control officer may impound any designated dangerous dog if the animal control officer has reasonable cause to believe that any of the mandatory restrictions upon such dog are not being followed, if the failure to follow such restrictions would likely result in a threat to public safety. The owner or custodian of a dangerous dog shall surrender such a dog to any animal control officer or law enforcement officer upon demand. In the event such dog is impounded, the animal control officer shall serve a citation upon the owner of such dog for violation of the provisions of this chapter.

(c) If a dog has been impounded pursuant to subsection (a) or subsection (b), the animal control director may permit the dog to be confined at the owner's expense in a veterinary facility pending a hearing pursuant to this chapter, provided that such confinement will ensure the public safety.

(d) No dog that has been designated by the court as a dangerous dog may be released by animal control or a veterinarian until the owner has paid all veterinarian costs and all other fees and costs of the animal control shelter that are normally charged to an owner prior to redemption of the animal. If the owner fails to pay such fees and costs and take possession of the dog within ten (10) days of the owner's receipt of notice of the designation of the dog as a dangerous dog, the dog shall be deemed to have been abandoned and may be disposed of by animal control. Euthanasia or surrender to animal control of such a dog does not free the owner of responsibility for all cost incurred up to and including the date of euthanasia or surrender.

(12) Destruction of dogs previously found to be dangerous. If any dog which has previously been found to be "dangerous" as is described herein shall be at large and shall attack or bite a human being, upon report to the animal control officer said dog shall be impounded and shall be confined the number of days as prescribed by the state health department and after said time shall be destroyed in a humane manner upon notice to the owner of said dog as is prescribed in § 3-207 of this chapter.

(13) Change of ownership, custody or location, or death of dog. (a) The owner or custodian of a designated dangerous dog who moves or sells the dog, or otherwise transfers the ownership, custody or location of the dog, shall, at least fifteen (15) days prior to the actual transfer or removal of the dog, notify animal control in writing of the name, address and telephone number of the proposed new location of the dog, and the name and description of the dog.

(b) The owner or custodian shall, in addition to the above, notify any new owner or custodian of a designated dangerous dog in writing regarding the details of the dog's record and the terms and conditions for confinement and control of the dog. The transferring owner or custodian shall also provide animal control with a copy of the notification to the new owner or custodian of his or her receipt of the original notification and acceptance of the terms and conditions. The new owner or custodian shall comply with all court restrictions.

(c) If a designated dangerous dog should die, the owner or custodian shall notify animal control no later than twenty-four (24) hours thereafter and, upon request, from animal control shall produce the animal for verification or evidence of the dog's death that is satisfactory to animal control.

(d) If a dangerous dog escapes, the owner or custodian shall immediately notify animal control and make every reasonable effort to recapture the escaped dog to prevent injury or death to humans or domestic animals.

(e) The following persons must notify animal control when relocating a dog to Shelbyville even on a temporary basis:

(i) The owner of a dangerous dog that has been designated as such by another lawful body other than Shelbyville; and

(ii) The owner of a dog that has had special restrictions placed against it by any humane society or governmental entity or agency other than Shelbyville based upon the behavior of the dog.

No such designation as a dangerous dog or any other similar such designation shall be recognized by Shelbyville if such designation is based solely on the breed of the dog. Such owner is subject to the restrictions set forth in this chapter. (1979 Code, § 3-206, as replaced by Ord. #295, §§ 6 and 7, and Ord. #821, June 2007)

3-207. Impoundment of dogs and cats. (1) It shall be the duty of the city police, animal control or rabies control officer or other authorized persons to seize and impound when found or come across by the officer, any "stray dog," "dangerous dog," dog reported or suspected of having rabies, dog or cat which is found to be a "nuisance," all as defined herein, or any dog or cat found "at large" or otherwise in violation of this chapter. It shall be required that any dog that has bitten a human being or has shown symptoms of rabies or is for any reason suspected of having rabies shall be reported by any citizen with knowledge of same to the animal or rabies control officer and said dog shall be immediately impounded, isolated, and confined under the supervision and observation of a licensed veterinarian and the animal control officer in the city animal shelter for such time as the veterinarian and the rabies control officer deem it necessary to protect the safety of the people and/or property. The animal may be quarantined at the facility of a licensed veterinarian with the permission of the animal control officer. In addition to the impoundment fee and boarding fees provided for in this chapter, the owner of said dog impounded for having bitten a human being or suspected of or showing symptoms of rabies shall pay a fee as set by resolution of the city council, which fee shall defray the expenses of the veterinarian under whose supervision the dog must be kept. All of said fees must be paid before the dog is relinquished to the owner at the end of the confinement.

(2) If the owner of any dog or cat confined under paragraph (1) of the section shall contest the validity or basis of said confinement, he shall file a petition contesting same before the city manager within five (5) days from the date of notice of confinement sent to him as is hereinafter provided or within five (5) days of confinement and the burden of proof shall be upon said owner to establish that said dog or cat was not validly confined under the provisions of paragraph (1) of this section. The decision of the city manager in such cases shall be binding and final except that the owner shall have a right to appeal such case to a court of competent jurisdiction.

(3) The animal control officer shall keep a record of each dog confined under paragraph (1) of the section, and all pertinent information relating to the dog, its license and its owners, which report shall be furnished to the city manager. (as added by Ord. #821, June 2007)

3-208. Impounded dog procedures; disposition. (1) If an impounded dog or cat is wearing a tag, the owner shall be notified on the day the dog is impounded, by postcard addressed to his last known mailing address to appear before the person designated in said notice (city manager or animal control officer) within five (5) days from the date of said notice and, except as hereinafter provided, to redeem his dog by paying such fees as are set by resolution of the city council and the payment of any license fee or, penalty assessed, if any, due at the time of impoundment. The said dog or cat may be disposed of by adoption, under terms imposed by paying the same fees, as if he

were the owner, including the pound fee, board fee and veterinary fee under terms imposed by the city manager, or by humane destruction; provided however, that if said impounded dog is a "dangerous dog," or a "nuisance," as defined herein, said dog shall not be released except under conditions prescribed by this chapter and the city manager. The dog or cat shall not be released to any group, organization, or person until said release is authorized by the city manager, provided further that if said dog constitutes a danger to the community in the opinion of the city manager, said official may order its destruction, as provided herein.

(2) If said dog or cat is not wearing a tag, the dog so seized and impounded shall be confined for a period of five (5) days after which it may be disposed of by adoption under terms imposed by this chapter, and by the payment of the fees set out in (1) above, or by humane destruction, all as provided in (1) above.

(3) No dog or cat shall be released in any event from the shelter unless and until it is in compliance with the Tennessee Spay/Neuter Law, Tennessee Code Annotated, § 44-17-501, or any successor statute, and it has been vaccinated and a tag purchased and placed on its collar, and a release fee as set by resolution of the city council, board bill, and veterinarian fee has been paid.

(4) Any owner wishing to contest the validity or basis for impoundment of his dog hereunder or any and all other decisions rendered prior to a formal hearing by the rabies control officer and/or city manager may file a petition before the city manager contesting same. At the hearing on said petition the burden of proof shall be upon the owner to prove the lack of basis for the impoundment of his dog or cat and any and all decisions theretofore rendered concerning said dog or cat. An owner shall have the right to appeal any final decision of the city manager upon such a petition and hearing to a court of competent jurisdiction within the time prescribed by law.

(5) City responsibility while dog or cat confined. The city and its officials shall not be responsible for any illness, disease, or death occurring to any dog or cat confined in the city animal shelter. (as added by Ord. #821, June 2007)

3-209. Abatement of nuisance. Upon the issuance of a citation or warrant signed by any person that the owner of a dog or cat is in violation of the provision of this chapter, the owner shall be required to appear before the court at the time designated in the citation or warrant to answer the charges brought against him or her, at which time city officials shall be present and shall present evidence for consideration by the court. (as added by Ord. #821, June 2007)

3-210. Violations; penalty. Violations of this chapter shall subject the violator to civil penalties for each day the violation continues. Each day of violation shall constitute a separate violation. In addition to any other remedies

at law, the City Shelbyville shall have the right to seek injunctive relief for any violation of this chapter. (as added by Ord. #821, June 2007)

3-211. Severability. The provisions of this chapter are hereby declared to be severable. If any of the sections, provisions, sentences, clauses, phrases or parts hereof be declared unconstitutional or void, the remainder of this act shall continue in full force and effect, it being the intent now hereby declared that this chapter would have been adopted even if such unconstitutional or void matter had not been included herein. (as added by Ord. #821, June 2007)

TITLE 4

BUILDING, UTILITY AND HOUSING CODES¹

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. HOUSING CODE.
6. FAIR HOUSING ORDINANCE.
7. AMUSEMENT DEVICE CODE.
8. EXISTING BUILDING CODE.
9. MECHANICAL CODE.
10. SWIMMING POOL, SPA AND HOT TUB CODE.
11. ABATEMENT OF DANGEROUS BUILDINGS CODE.
12. LIFE SAFETY CODE.
13. RESIDENTIAL CODE.
14. SIGN CODE.
15. PROPERTY MAINTENANCE CODE.
16. ENERGY CONSERVATION CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 4-101. Building code adopted.
- 4-102. Modifications.
- 4-103. Available in recorder's office.
- 4-104. Violations.

4-101. Building code adopted. Pursuant to authority granted by sections 6-54-501--6-54-506 of the Tennessee Code Annotated and for the purpose of regulating the construction, alteration, repair, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the

¹For related provisions in this code see title 7, "Fire Protection, Fireworks and Explosives"; title 8, "Health and Sanitation"; title 11, "Planning and Zoning"; title 12, "Street and Other Public Ways and Places"; and title 13, "Utilities and Services."

International Building Code,¹ 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (1966 Code, § 4-101, as amended by Ords. #207; 235; 537, Dec. 1995, modified; 594, April 1998; Ord. #747, Sept. 2004; and Ord. #874, July 2009)

4-102. Modifications. Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the city manager. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the city manager shall have appointed or designated to administer and enforce the provisions of the building code. (1966 code, sec. 4-102, modified)

4-103. Available in recorder's office. Pursuant to the requirements of section 6-54-502 of the Tennessee Code Annotated, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1966 Code, sec. 4-103, modified)

4-104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1966 code, sec. 4-104)

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

CHAPTER 2

PLUMBING CODE¹

SECTION

4-201. Plumbing code adopted.

4-202. Modifications.

4-203. Available in recorder's office.

4-204. Violations.

4-201. Plumbing code adopted. Pursuant to authority granted by sections 6-54-501--6-54-506 of the Tennessee Code Annotated and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings and the appurtenances thereto, within or without the municipality, when such plumbing is or is to be connected with the municipal water or sewerage system, the International Plumbing Code,² 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1966 Code, § 4-201, as amended by Ords. #208; 237; 537, Dec. 1995, modified; 594, April 1998; Ord. #747, Sept. 2004; and Ord. #874, July 2009)

4-202. Modifications. Wherever the plumbing code refers to the "Chief Appointing Authority," or the "Administrative Authority," it shall be deemed to be a reference to the city manager. The "Governing Authority" shall mean the city council.

Wherever "City Engineer," "Engineering Department," "Plumbing official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the plumbing code. (1966 code, sec. 4-202, modified)

4-203. Available in recorder's office. Pursuant to the requirements of section 6-54-502 of the Tennessee Code Annotated, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1966 code, sec. 4-203, modified)

¹See also titles 8, 12 and 13 in this code for related provisions.

See title 5, chapter 4, for provisions relating to a board of examiners for licensing contractors, plumbers, etc.

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

4-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1966 code, sec. 4-204)

CHAPTER 3

ELECTRICAL CODE¹

SECTION

- 4-301. Electrical code adopted.
- 4-302. Available in recorder's office.
- 4-303. Permit required for doing electrical work.
- 4-304. Violations.
- 4-305. Enforcement.
- 4-306. Fees.

4-301. Electrical code adopted. Pursuant to authority granted by sections 6-54-501--6-54-506 of the Tennessee Code Annotated and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,² 2008 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1966 Code, § 4-301, as amended by Ords. #209; 238; modified; 594, April 1998; Ord. #747, Sept. 2004; and Ord. #874, July 2009)

4-302. Available in recorder's office. Pursuant to the requirements of section 6-54-502 of the Tennessee Code Annotated, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1966 code, sec. 4-302)

4-303. Permit required for doing electrical work. No electrical work shall be done within this municipality until a permit therefor has been issued by the state. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus or other electrical devices generally requiring the services of an electrician. (1966 code, sec. 4-303)

4-304. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such

¹See also title 7 in this code for the fire prevention code, etc.

See title 5, chapter 4, for provisions relating to a board of examiners for licensing contractors, plumbers, etc.

²Copies of this code may be purchased from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Mass. 02210.

circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1966 code, sec. 4-304)

4-305. Enforcement. The electrical inspector shall be a deputy inspector of the state fire marshal. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized and directed to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1966 code, sec. 4-305)

4-306. Fees. The electrical inspector shall collect the fees authorized in section 68-17-143, Tennessee Code Annotated, for electrical inspections by deputy inspectors of the state fire marshal. (1966 code, sec. 4-306)

CHAPTER 4

GAS CODE¹

SECTION

- 4-401. Title and definitions.
- 4-402. Purpose and scope.
- 4-403. Use of existing piping and appliances.
- 4-404. Bond and license.
- 4-405. Gas inspector and assistants.
- 4-406. Powers and duties of inspector.
- 4-407. Permits.
- 4-408. Inspections.
- 4-409. Certificates.
- 4-410. Violations and penalties.
- 4-411. Non-liability.

4-401. Title and definitions. (1) This chapter and/or the code herein adopted by reference shall be known as the "Gas Code" of the City of Shelbyville and may be cited as such.

(2) The following definitions are provided for the purpose of interpretation and administration of this chapter.

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

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

(c) "Gas company" means any person distributing gas within the corporate limits of the City of Shelbyville, or authorized and proposing to so engage.

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

(e) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters and boilers. (1966 code, sec. 4-401, modified)

¹See also title 13 in this code.

See title 5, chapter 4, for provisions relating to a board of examiners for licensing contractors, plumbers, etc.

4-402. Purpose and scope. The purpose of this chapter is to provide minimum standards, provisions and requirements for safe installation of consumer's gas piping and gas appliances. All such gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits of the City of Shelbyville shall conform to the requirements of this chapter and to the International Fuel Gas Code,¹ 2009 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. One (1) copy of the gas code shall be kept on file in the office of the city recorder for the use and inspection of the public. (1966 Code, § 4-402, as amended by Ords. #210; 239; 537, Dec. 1995, modified; Ord. #747, Sept. 2004; and Ord. #874, July 2009)

4-403. Use of existing piping and appliances. Notwithstanding any provision in this chapter to the contrary, consumer's piping installed prior to the adoption of this chapter or piping installed to supply other than natural gas may be converted to natural gas, if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of this chapter. (1966 code, sec. 4-403)

4-404. Bond and license. No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license and executed and delivered to the city recorder a good and sufficient bond.

Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work on his own premises; provided, however, all such work must be done in conformity with all other provisions of this chapter, including those relating to permits, inspections, and fees. (1966 code, sec. 4-404)

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

4-405. Gas inspector and assistants. To provide for the administration and enforcement of this chapter, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the gas company serving the City of Shelbyville. (1966 code, sec. 4-405)

4-406. Powers and duties of inspector. (1) The inspector is authorized and directs to enforce all of the provisions of this chapter, and the inspector, upon presentation of proper credentials, may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of this chapter.

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

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (1966 code, sec. 4-406)

4-407. Permits. (1) No person shall install, repair or replace a gas burning appliance or adjust a consumer's gas piping without first obtaining a permit to do such work from United Cities Gas.

(2) The gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system. (1966 code, sec. 4-407, modified)

4-408. Inspections. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any

fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test. All tools, apparatus, labor, and assistance necessary for the tests shall be furnished by the installer of such piping. (1966 code, sec. 4-408, modified)

4-409. Certificates. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued, if after inspection it is found that such work complies with the provisions of this chapter. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (1966 code, sec. 4-409)

4-410. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the license of such person may be revoked, or both fine and revocation of license may be imposed. (1966 code, sec. 4-411)

4-411. Non-liability. This chapter shall not be construed as imposing upon the City of Shelbyville any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the City of Shelbyville, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector. (1966 code, sec. 4-412)

CHAPTER 5

HOUSING CODE

SECTION

4-501. Housing code adopted.

4-502. Modifications.

4-503. Available in recorder's office.

4-504. Violations.

4-501. Housing code adopted. Pursuant to authority granted by sections 6-54-501--6-54-506 of the Tennessee Code Annotated and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light and ventilation in dwellings, apartment houses, rooming houses and buildings, structures or premises used as such, the Standard Housing Code,¹ 1997 edition, 1992/1994 Revision as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the housing code. (1966 code, sec. 4-501, as amended by ords. No. 194; 206; 236; 537, Dec. 1995, modified; and 594, April 1998)

4-502. Modifications. Wherever the housing code refers to the "Building Official" it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the housing code. Wherever the "Department of Law" is referred to it shall mean the city attorney. Wherever the "Chief Appointing Authority" is referred to it shall mean the city manager. (1966 code, sec. 4-502, modified)

4-503. Available in recorder's office. Pursuant to the requirements of section 6-54-502 of the Tennessee Code Annotated, one (1) copy of the housing code with the above modifications has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1966 code, sec. 4-503, modified)

4-504. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1966 code, sec. 4-504)

¹Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 6

FAIR HOUSING ORDINANCE

SECTION

4-601. Policy of city.

4-602. Definitions.

4-603. Unlawful practices generally.

4-604. Discrimination by real estate organizations prohibited.

4-605. Duties of human relations subcommittee.

4-606. Complaints; prosecution of violations.

4-607. Penalty.

4-608. Additional remedies.

4-601. Policy of city. It is the policy of the City Council of the City of Shelbyville, Tennessee, to safeguard all individuals within the city from discrimination because of race, color, religion, and national origin in connection with housing, thereby to protect their interest in personal dignity and freedom from humiliation, to make available to the city their full productive capacities, to secure the city against strife and unrest which would menace the democratic institutions, and to preserve the public safety, health, and general welfare. (ord. No. 278, sec. 1)

4-602. Definitions. Whenever used in this chapter, the following words and terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location of any such building.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(4) "To rent" includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (ord. No. 278, sec. 2)

4-603. Unlawful practices generally. It shall be unlawful for any person to do any of the following acts:

(1) To refuse to sell or rent after the making of a bonafide offer to do so or to refuse to negotiate for the sale or rental of, or otherwise make

unavailable or deny a dwelling to any person because of race, color, religion, or national origin.

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

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

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

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin. (ord. No. 278, sec. 3)

4-604. Discrimination by real estate organizations prohibited. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate broker's organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation on account of race, color, religion, or national origin. (ord. No. 278, sec. 4)

4-605. Duties of human relations subcommittee. The human relations subcommittee of the mayor's citizens' advisory committee of Shelbyville is authorized and directed to undertake such educational and conciliatory activities as in its judgment will further the purposes of this chapter. It may call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions hereof and the committee's suggested means of implementing it. The subcommittee shall further endeavor, with the advice of the housing industry and other interested parties, to work out programs of voluntary compliance and may advise appropriate city officials on matters of enforcement. The subcommittee may issue reports of such conferences and consultations as it deems appropriate. (ord. No. 278, sec. 5)

4-606. Complaints; prosecution of violations. Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the chairman of said subcommittee or the code enforcer of the City of Shelbyville. If the complaint is filed with the code enforcer, he shall immediately proceed to investigate the complaint and then notify the chairman of said subcommittee. A complaint

shall be filed within sixty (60) days after the alleged unlawful act occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the human relations subcommittee. Upon receipt of a complaint the subcommittee shall promptly investigate it and shall complete its investigation within thirty (30) days. If a majority of the human relations subcommittee finds reasonable cause to believe that a violation of this chapter has occurred, or if a person charged with violation of this chapter refuses to furnish information to said subcommittee, the subcommittee may request the city attorney to prosecute an action in the city court against the person charged in the complaint. Such request shall be in writing. Upon receiving such written request and with the assistance of the aggrieved person and said subcommittee, within thirty (30) days after receiving such request, the city attorney shall be prepared to prosecute an action in the city court, provided a warrant is sworn out by the aggrieved person and served upon the person or persons charged with the offense. (ord. No. 278, sec. 6)

4-607. Penalty. Any person violating any provision of this chapter shall be guilty of an offense punishable under the general penalty clause for this municipal code. (ord. No. 278, sec. 7)

4-608. Additional remedies. Nothing in this chapter requires any person claiming to have been injured by an act made unlawful by this chapter to exhaust the remedies provided herein, nor prevent any such person from seeking relief at any time under the federal civil rights acts or other applicable legal provisions. (ord. No. 278, sec. 8)

CHAPTER 7

AMUSEMENT DEVICE CODE

SECTION

- 4-701. Amusement device code adopted.
- 4-702. Conflicting ordinances repealed.
- 4-703. Designated official.

4-701. Amusement device code adopted. The Standard Amusement Device Code¹, 1997 edition, as prepared and adopted by the Southern Building Code Congress International Inc., is hereby adopted and incorporated by reference as a part of this code. (Ord. #537, Dec. 1995, modified; as amended by Ord. #747, Sept. 2004)

4-702. Conflicting ordinances repealed. Any matters in said codes which are contrary to existing ordinances of the City of Shelbyville shall prevail and that Ordinance No.____, entitled Standard Building Code 1991 Edition, are hereby repealed and, to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #537, § 2, Dec. 1995)

4-703. Designated official. Within said codes, when reference is made to the duties of a certain official named therein, that designated official of the City of Shelbyville who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said codes are concerned. (Ord. #537, § 3, Dec. 1995)

¹Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 8

EXISTING BUILDING CODE

SECTION

4-801. Existing building code adopted.

4-802. Conflicting ordinances repealed.

4-803. Designated official.

4-801. Existing building code adopted. The International Existing Building Code¹, 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code. (Ord. #537, Dec. 1995, modified; as amended by Ord. #747, Sept. 2004; and Ord. #874, July 2009)

4-802. Conflicting ordinances repealed. Any matters in said codes which are contrary to existing ordinances of the City of Shelbyville shall prevail and that Ordinance No. ____, entitled Standard Building Code-1991 Edition, are hereby repealed and, to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #537, § 2, Dec. 1995)

4-803. Designated Official. Within said codes, when reference is made to the duties of a certain official named therein, that designated official of the City of Shelbyville who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #537, § 3, Dec. 1995)

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

CHAPTER 9

MECHANICAL CODE

SECTION

4-901. Mechanical code adopted.

4-902. Conflicting ordinances repealed.

4-903. Designated official.

4-901. Mechanical code adopted. The International Mechanical Code¹, 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as part of this code. (Ord. #537, Dec. 1995, modified; as amended by Ord. #747, Sept. 2004; and Ord. #874, July 2009)

4-902. Conflicting ordinances repealed. Any matters in said codes which are contrary to existing ordinances of the City of Shelbyville shall prevail and that Ordinance No. ____, entitled Standard Building Code-1991 Edition, are hereby repealed and, to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #537, § 2, Dec. 1995)

4-903. Designated official. Within said codes, when reference is made to the duties of a certain official named therein, that designated official of the City of Shelbyville who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #537, § 3, Dec. 1995)

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

CHAPTER 10

SWIMMING POOL, SPA AND HOT TUB CODE

SECTION

- 4-1001. Swimming pool, spa and hot tub code adopted.
- 4-1002. Conflicting ordinances repealed.
- 4-1003. Designated officials.

4-1001. Swimming pool code adopted. The Uniform Swimming Pool, Spa and Hot Tub Code, 1997 edition, as prepared by the International Association of Plumbing and Mechanical Officers, is hereby adopted and incorporated by reference as a part of this code. (Ord. #537, Dec. 1995, modified; as amended by Ord. #747, Sept. 2004)

4-1002. Conflicting ordinances repealed. Any matters in said codes which are contrary to existing ordinances of the City of Shelbyville shall prevail and that Ordinance No. ____, entitled Standard Building Code-1991 Edition, are hereby repealed and, to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #537, § 2, Dec. 1995)

4-1003. Designated Official. Within said codes, when reference is made to the duties of a certain official named therein, that designated official of the City of Shelbyville who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #537, § 3, Dec. 1995)

CHAPTER 11

ABATEMENT OF DANGEROUS BUILDINGS CODE

SECTION

4-1101. Unsafe building abatement code adopted.

4-1102. Conflicting ordinances repealed.

4-1103. Designated official.

4-1101. Unsafe building abatement code adopted. The Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, as prepared and adopted by the International Conference of Building Officials, is hereby adopted and incorporated by reference as a part of this code. (Ord. #537, Dec. 1995, modified; as amended by Ord. #747, Sept. 2004)

4-1102. Conflicting ordinances repealed. Any matters in said codes which are contrary to existing ordinances of the City of Shelbyville shall prevail and that Ordinance No. ____, entitled Standard Building Code-1991 Edition, are hereby repealed and, to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #537, § 2, Dec. 1995)

4-1103. Designated Official. Within said codes, when reference is made to the duties of a certain official named therein, that designated official of the City of Shelbyville who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #537, § 3, Dec. 1995)

CHAPTER 12

LIFE SAFETY CODE

SECTION

4-1201. Life safety code adopted.

4-1202. Conflicting ordinances repealed.

4-1203. Designated official.

4-1201. Life safety code adopted. The NFPA 101 Life Safety Code¹, 2006 edition, as recommended by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code. (Ord. #537, Dec. 1995, modified; as amended by Ord. #647, Sept. 2000; Ord. #747, Sept. 2004; and Ord. #889, Nov. 2010)

4-1202. Conflicting ordinances repealed. Any matters in said codes which are contrary to existing ordinances of the City of Shelbyville shall prevail and that Ordinance No. ____, entitled Standard Building Code-1991 Edition, are hereby repealed and, to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #537, § 2, Dec. 1995)

4-1203. Designated Official. Within said codes, when reference is made to the duties of a certain official named therein, that designated official of the City of Shelbyville who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #537, § 3, Dec. 1995)

¹Copies of this code are available from the National Fire Protection Association, Inc., Battery March Road, Quincy, MA 02269

CHAPTER 13

RESIDENTIAL CODE

SECTION

4-1301. Residential code adopted.

4-1302. Conflicting ordinances repealed.

4-1303. Designated official.

4-1301. Residential code adopted. The International Residential Code¹, 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code. The requirement of sprinkler systems in single family dwellings and duplexes is excluded. (Ord. #537, Dec. 1995, modified; amended by Ord. #747, Sept. 2004; and Ord. #874, July 2011)

4-1302. Conflicting ordinances repealed. Any matters in said codes which are contrary to existing ordinances of the City of Shelbyville shall prevail and that Ordinance No. ____, entitled Standard Building Code-1991 Edition, are hereby repealed and, to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #537, § 2, Dec. 1995)

4-1303. Designated Official. Within said codes, when reference is made to the duties of a certain official named therein, that designated official of the City of Shelbyville who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #537, § 3, Dec. 1995)

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

CHAPTER 14

SIGN CODE

SECTION

- 4-1401. Title and definitions.
- 4-1402. Administration, enforcement and fees.
- 4-1403. General limitations and regulations of signs.
- 4-1404. Additional regulations for signs permitted in residential districts.
- 4-1405. Additional regulations for signs permitted in commercial districts.
- 4-1406. Regulations of billboards.
- 4-1407. Non conforming sign provisions.
- 4-1408. Termination of nonconforming sign structures.
- 4-1409. Removal of nonconforming signs.
- 4-1410. Protections of first amendment rights.

4-1401. Title and definitions. This chapter shall be known as the "Sign Code" of the City of Shelbyville, and cited as such. For the purpose of this chapter, the following terms, phrases and words shall have the meaning given herein. Words not defined in this chapter shall have the meaning in Webster's Dictionary of the English Language, as revised.

(1) "Billboard sign." An advertising device upon which the message may be manually changed and may require catwalks, scaffolding or platforms to do so. This type sign directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

(2) "City." When used herein shall mean the City of Shelbyville, Bedford County, Tennessee.

(3) "Display surface area." The display surface area shall mean and include the entire area of a single continuous perimeter enclosing the extreme limits of wording, representation, emblem or any figure of similar character, together with any material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. The area of a sign composed of individual letters shall be calculated by measuring the length of the word or words in a line and multiplying by the height of the tallest letter. The supports, uprights or decorative base of a sign shall not be included in determining the display surface area of a sign.

(4) "Flashing sign." A sign, the illumination of which is intermittently on and off so as to flash or blink or the intensity varies so as to appear to flash or blink.

(5) "Ground sign." An "outdoor advertising display" (excluding billboards) when such sign is supported by uprights or braces of any kind upon the ground and permanently affixed thereto.

(6) "Height of sign." The vertical distance measured from the surrounding grade to the highest point of the sign.

(7) "Identification sign." A sign located at the entrance utilized to designate a residential subdivision, commercial, non-commercial, industrial or multifamily development.

(8) "Inflatable sign." A temporary inflated sign, which may be stationary or mobile, that is used to attract attention, which may or may not bear a message.

(9) "Lot of record." A tract of land whose existence, location, boundaries and dimensions have been legally recorded in a deed or plat and filed as a legal record and including any that is filed on record in the register's office of Bedford County, Tennessee. If a building sits on two (2) or more lots, it is considered one (1) lot of record for purposes of this chapter.

(10) "On-site directional sign." A sign not exceeding four and one-half (4½) square feet in surface area directing traffic movement onto a premises or within a premises.

(11) "Non conforming sign." A lawful sign existing at the effective date of the adoption of this chapter that does not conform with the provisions of this chapter. A sign constructed illegally in violation of any prior law, ordinance, or code will not be considered legal by this chapter unless it conforms to all requirements of this chapter.

(12) "Off-site sign." A sign, excluding billboards, which directs attention to a location or service not principally at the same location as the sign.

(13) "On-site sign." An on-site sign or portion thereof is a sign which directs attention to a business, profession, commodity, service or entertainment which is primarily conducted, sold or offered upon the same lot of record.

(14) "Portable sign." A portable sign shall include any advertising sign or device, counterbalance sign, trailer sign, off-site real estate sign, inflatable sign, or any variation thereof, easily moveable, not permanently attached thereto and which is usually two-sided and including any single or double surfaced painted or poster panel type sign or any variation thereof which is temporary in nature.

(15) "Projecting sign." An "outdoor advertising display" sign which is affixed to any building, wall or structure and extends beyond the building wall or structure by more than twelve inches.

(16) "Right-of-way-line." The boundary line or margin of the area adjacent to public streets, roads, and highways over which exists an easement or easements or other right to install and maintain public improvements including, but not limited to, overhead and underground power lines, telephone lines, water lines, sewer lines, drainage facilities including open ditches and storm water sewers and culverts, regardless of whether the right to construct those public improvements in the area was acquired by grant, by prescription or by exercise of the power of eminent domain. The right-of-way line will usually be parallel to the margin of the public street, road or highway but

exceptions may exist for each separate parcel of real property. This sign chapter does not supersede any right-of-way requirements of the state.

(17) "Setback." A line located parallel to and a specified distance from the right-of-way line, curblineline or the edge of the pavement, such distance being specified in the applicable section of this chapter and behind which line a sign allowed under this chapter may be constructed, erected or otherwise maintained.

(18) "Sign." Street graphics and includes frame, letter, figure, character, make, plain, point, marquee, canopy, awning, design, picture, poster, stroke, banner, streamer, pennant, bunting, inflatable sign, strike line, flag, logotype, trademark, reading matter, illuminating device, or any device used for illumination of such which is used or intended to be used to attract attention or convey information when the same is placed outdoors in the view of the general public or for the purpose of attracting the general public to any place, or any business, or any person, firm or corporation or to any public performance, or to any article, machine or merchandise of any nature whatsoever and which is displayed in any manner whatsoever. String lighting, strip lighting, (attached neon tubing), flashing lights, and chasing lights in commercial, industrial, and multi-family zones and/or uses are included in the definition of "sign."

(19) "Sign area." The total number of signs and/or display surface areas on any one (1) premises or lot of record or commercial industrial developments and complexes.

(20) "Signable area." The total number of signs and/or display surface areas permitted in this chapter on any one (1) premises or lot of record, commercial, and/or industrial developments and complexes.

(21) "Size." Refers to display surface area.

(22) "Temporary sign." Any sign which by reason of construction or purpose is to be used for a limited period of time.

(23) "Temporary window sign." A sign in contact with or within three (3) feet of the window on the inside, and visible from the outside, that is not painted onto the window or stuck to the window in such a manner as to require scraping or the use of solvents or similar substances to remove it from the window pane.

(24) "Traffic directional sign." Any sign which aids the flow of traffic.

(25) "Wall sign." An outdoor advertising display sign affixed to the wall of any building, projecting not more than twelve (12) inches from the building. (as added by Ord. #601, July 1998, and replaced by Ord. #616, April 1999)

4-1402. Administration, enforcement and fees. (1) It shall be unlawful for any person, corporation or association to erect, prepare, alter, relocate or keep within the city any sign or other advertising structure as defined in this chapter on a lot of record without first obtaining a sign permit from the Shelbyville Codes Department and paying the permit fee required by this

section. The following types of signs are exempted from all provisions of this ordinance:

(a) Public signs. Signs erected by, or on the order of, a public officer in the performance of his or her public duty, such as safety signs, danger signs and traffic signs.

(b) Historical markers. Historical markers as recognized by local, state, or federal authorities.

(c) Interior signs and temporary window signs

(d) Governmental flags. National, state, or local government flags.

(2) The chief building official is hereby designated as the sign administrator for this chapter.

(3) The administration and enforcement of this chapter shall include, though not be limited to the following:

(a) Issuance of sign permit applications and other forms, and approval and denial of the same.

(b) Providing public information relating to sign matters.

(c) Registration and maintenance of records on all signs.

(d) Making periodic checks for violations of this chapter and issuing written notices of violations and of work required to correct violations.

(4) Administrative interpretation of chapter. In the event there is a question concerning the general intent or meaning of any provision of this chapter, the sign administrator shall have the authority to make such administrative decisions and interpretations. Any relief from the strict application of the specific requirements of this chapter may be resolved by the zoning board of appeals.

(5) Compliance and enforcement. When the administrator finds violations of the provisions of this chapter, he or she shall document the findings and notify in writing to the party responsible and detail the violation and the necessary corrective action. Violators shall be given three (3) days to correct violations, except in cases of urgency for safety reasons as determined by the sign administrator, immediate action may be required.

(6) The fee for all signs not exempt from the fee shall be the schedule of permit fees from the most current adopted building code. The owner of the sign shall be required to obtain the permit and pay any required fees.

(7) Penalties. Any person found guilty of violating the terms of this chapter shall be subject to a penalty to be determined by the city court for each offense. Each day such violations continue shall constitute a separate offense. (as added by Ord. #601, July 1998, replaced by Ord. #616, April 1999, and amended by Ord. #657, Jan. 2001)

4-1403. General limitations and regulations of signs. (1) No person shall erect, place or cause to be erected or placed any outdoor sign visible from any

public way except in conformance with this chapter, and pertinent requirements of the adopted building code.

(2) No sign shall be attached to any tree, fence or utility pole or be painted upon or otherwise directly affixed to any rock, ledge or other natural feature.

(3) No sign shall be erected or placed as follows:

(a) At any location where, by reason of position, shape, wording or color, it interferes with or obstructs the view of pedestrian or vehicular traffic, or

(b) Which may be confused with any authorized traffic sign signal or device.

(c) On a corner lot in any district except the central business district within the area formed by the center line of intersecting streets or intercepting streets and/or railroads and a line joining points on such center lines at a distance of seventy-five (75) feet from their intersection for two (2) lane streets and one-hundred (100) feet from their intersection for four (4) lane streets, there shall be no obstruction to vision between the height of three (3) feet and a height of ten (10) feet above the average grade of each street and/or railroad at the center line thereof.

(4) No sign shall be allowed to have the following:

(a) Visible moving parts; or noisy mechanical devices; or

(b) Moving, flashing or glaring illumination; except that movement may be allowed on message center type signs; or

(c) The words "stop," "go slow," "caution," "warning," "danger," or similar words when used in such a manner as to confuse them with traffic control signs. Rotating signs are not permitted.

(5) All signs whether permanent or temporary shall be maintained in a safe, neat and orderly manner. This includes but is not limited to structural maintenance, painted surfaces and manicuring of unsightly grass and weeds around the signs.

(6) No projecting sign shall be erected or maintained from the front or face of a marquee or building a distance of more than thirty-six (36) inches, unless otherwise provided.

(7) Signs made of metal, glass or plastic with electric lights inside of the sign or with letters composed of lamps or neon tubing on the outside of same, or similar construction may be erected, provided:

(a) They conform with all electrical codes for such devices, and

(b) No electrical lights or fixtures shall be attached in any manner to a wooden sign which is attached to a building.

(8) No sign or any foundation or support shall be placed in or over any dedicated street or highway right-of-way or in any utility or drainage easement. No part of any sign may extend over the right-of-way except as may be specifically permitted in certain zoning districts. Any sign located within any right-of-way (R-O-W) will be subject to confiscation by the City of Shelbyville.

(9) On site ground signs shall not exceed thirty-five (35) feet in height.

(10) If a portable/trailer type sign is permitted it shall comply with the following as well as all other provisions of this chapter:

(a) Anchoring. Signs shall be anchored according to the most current adopted building codes.

(b) Electrical. Each electrical installation requires an electric permit and shall meet all requirements of the National Electrical Code.

(c) No flashing, blinking, strobing, or chasing lights are permitted. Maximum 60-watt colored bulbs shall be utilized for illumination in portable/trailer signs.

(d) Portable/trailer signs are only allowed as an on-site sign and shall not exceed thirty (30) continuous days then must be removed for a period of at least thirty (30) days. Such signs shall not be permitted for more than a total of sixty (60) days each calendar year.

(e) There shall be no more than one portable/trailer type sign per premises or lot and it shall be removed from the premises upon the expiration date of the permit.

(f) Portable/trailer signs shall be set back a minimum distance of five (5) feet from all property lines and sidewalks. At the R-O-Ws of street intersections and exits from parking lots, no sign shall be located so as to impede vision for a distance of fifty (50) feet in either direction.

(g) Portable/trailer signs shall not be placed on city, state or federal rights-of-way.

(11) An outdoor advertising display sign shall not be erected, constructed or maintained so as to obstruct any fire escape or any window or door or opening uses as a means of egress or so as to prevent free passage from one part of a roof to any other part thereof. A sign shall not be attached in any form, shape or manner to a fire escape, nor be placed in such a manner as to interfere with any opening required for legal ventilation.

(12) Signs which advertise a terminated activity, business, product or service no longer produced or conducted on the premises upon which the signs are located are prohibited and shall be removed within thirty (30) days from the date of said vacancy.

(13) Power lines. The closest part of a permanent sign shall not be any closer than ten (10) feet from a vertical line above and below the nearest primary conductors. The closest part of a sign shall not be any closer than ten (10) feet from a vertical line above and below the nearest secondary or service conductor not attached to the sign.

(14) Temporary political signs. In addition to all other signs authorized herein, temporary attached and ground signs advertising political parties, issues or candidates, when the same are related to or concerning a pending election to be held within the city or county may be erected and maintained temporarily for a period of time not earlier than sixty (60) days prior to the election, and not more than two (2) days after the election or any runoff election, concerning the

subject matter of the sign has been held. The following terms and conditions apply:

(a) No permit shall be required on signs with a face area of less than eight (8) square feet. In no case shall the total sign area exceed sixteen (16) square feet. It shall be the duty of each person erecting or maintaining a temporary political sign to remove the same within the time herein authorized.

(b) No such signs shall be erected upon any public right-of-way, public park, public building, public grounds or other public place, and no sign may be attached to any tree, fence post, utility pole, or traffic control or directional sign, and it shall be unlawful for any person to erect or maintain any such sign upon the property of another without first having secured permission of the owner or person in possession of said property.

(15) Off-site real estate directional signs shall comply with the following provisions:

(a) Such signs shall apply to property located within the city limits.

(b) Maximum display surface area 16 square feet

(c) Maximum height 6 feet

(d) Setback from sidewalks and property lines and right-of-way (R-O-W) 5 feet

(e) Such signs shall be removed within forty-eight (48) hours from the date of the auction or sale.

(f) The number of such signs shall be limited to no more than four (4) for each sale.

(g) Banners or other attachments that increase the appearance of the signs are prohibited.

(h) All other provisions of the chapter shall be met.

(16) Signs advertising in home occupations shall not be greater than one (1) square foot.

(17) Signs advertising bed and breakfasts shall not be greater than four (4) square feet.

(18) Off-site directional signs for auctions outside the city limits shall comply with the following provisions:

(a) Such signs shall apply only to property located within Bedford County.

(b) Maximum display surface area 16 feet

(c) Maximum height 6 feet

(d) Setback from sidewalks and property lines and right-of-way (R-O-W) 5 feet

(e) Such signs shall be removed within forty-eight (48) hours from the date of the auction.

(f) Posting of such signs shall be limited to fourteen (14) days prior to the sale.

(g) The number of such signs shall be limited to no more than four (4) for each sale.

(h) Banners or other attachments that increase the appearance of the signs are prohibited.

(i) All other provisions of the chapter shall be met. (as added by Ord. #601, July 1998, replaced by Ord. #616, April 1999, and amended by Ord. #657, Jan. 2001)

4-1404. Additional regulations for signs permitted in residential districts.

(1) Signs upon premises occupied by schools of more than 200 students, service clubs, churches, hospitals and other permitted uses other than dwellings are permitted:

(a) The area on one side of the sign must not exceed 40 square feet.

(b) No more than one sign allowed on each premises unless such premises front on more than one street in which case one such sign may be erected on each frontage.

(c) The sign may be either attached or a ground sign.

(2) Real estate signs are permitted provided the area of any such sign shall not exceed thirty-two (32) square feet and pertain to the sale, lease, or rental of property on which the sign is displayed. Sign shall not be illuminated by any means. Auction signs shall be removed within forty-eight (48) hours from the date of the auction.

(3) A subdivision consisting of twenty (20) or more lots and a multi-family development consisting of ten (10) or more dwelling units may display one permanent sign identifying the venture at each major vehicular entrance.

(a) Such sign may be displayed on entrance wall, fence or other structure used to delineate the major entrance or may otherwise be ground mounted.

(b) Such sign may not be attached to any building and may not be more than thirty-two (32) square feet in area on one side.

(4) Contractor signs may be temporary signs not exceeding thirty-two (32) square feet in area indicating the name of the contractor, engineers, developers and/or architects of a construction project.

(a) Temporary in this regard shall mean that period of time commencing with the construction and terminating when the construction project is completed.

(b) This subsection shall not apply to signs required by governmental agencies during construction.

(5) Garage sale signs. (a) Two signs permitted. Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property of the residence or nonresidential site where the garage sale is being considered.

(b) Directional signs. Two (2) signs of not more than two (2) square feet each are permitted, provided that the premises on which the garage sale is conducted is not a major thoroughfare, and written permission to erect such signs is received from the property owners on whose property such signs are to be placed. (as added by Ord. #601, July 1998, and replaced by Ord. #616, April 1999)

4-1405. Additional regulations for signs permitted in commercial districts. (1) On-site signs in commercial districts. (a) Attached signs are permitted provided said signs:

(i) Are not more than one hundred (100) square feet in total display surface area or twenty (20) percent of the area of the building face upon which it is erected whichever is more restrictive.

(ii) Projection type signs shall be a minimum of ten (10) feet above any private sidewalk or private street and shall project not more than three (3) feet from a line perpendicular to the face of the building.

(iii) No attached sign shall be mounted on or to the roof or extend above the roof line.

(b) Portable/trailer type signs as long as subject signs are in compliance with all other sections of these regulations including § 4-1403(10).

(c) Ground signs are permitted provided said signs:

(i) Are not larger than one hundred (100) square feet in display surface area;

(ii) Are set back (5) feet from all rights-of-way, property lines and sidewalks;

(iii) Are spaced so that they are not closer than (50) feet to one another;

(iv) And are no higher than thirty-five (35) feet.

(d) Real estate signs as allowed in residential areas, § 4-1404(2).

(e) Contractors signs as allowed in residential areas except that the size allowed may be thirty-two (32) square feet.

(f) The total display surface area of all permanent signs for any one business excluding public convenience signs, shall not exceed one hundred fifty (150) square feet.

(g) A multiple tenant business sign shall be permitted provided:

(i) The sign is no larger than one hundred fifty (150) square feet of display surface area for identification of the complex.

(ii) Each business may have an additional sign not exceeding thirty-two (32) square feet.

(h) Theater signs not exceeding one hundred fifty (150) square feet in aggregate shall be in addition to all other signs authorized by this section.

(2) Off-site signs in commercial districts. Off-site signs other than real estate, garage/yard sale signs, and billboards are allowed provided such signs are located only in commercial districts and advertise business in nonresidential districts and have the written permission from the land owner. (as added by Ord. #601, July 1999, and replaced by Ord. #616, April 1999)

4-1406. Regulations of billboards. One billboard may be erected on any lot zoned C-2 Highway Service District, I-1 Light Industrial District, I-2 Heavy Industrial District, or F-1 Floodway District provided it conforms with all provisions of the most recently adopted Shelbyville Municipal Flood Damage Prevention Ordinance. Such sign shall have a maximum of four hundred (400) square feet of display surface area and be located no closer than fifty (50) feet to a street right-of-way and is no closer than six hundred (600) feet to any other billboard. The billboard must be located on a U.S. or State of Tennessee designated highway containing four or more lanes and cannot be within two hundred (200) feet of an intersection. The maximum height shall be fifty (50) feet from ground level or street level, whichever is lower. No billboard shall be located within five hundred (500) feet of the property line of any designated historic district, landmark, or public park. (as added by Ord. #601, July 1998, and replaced by Ord. #616, April 1999)

4-1407. Non conforming sign provisions. Any non-conforming sign on private property that may be continued in operation and maintained after the effective date of this chapter, shall not be:

- (1) Changed to or replaced with another non-conforming sign.
- (2) Structurally altered so as to extend its useful life.
- (3) Expanded.
- (4) Relocated.
- (5) Reestablished after damage or destruction of more than fifty (50) percent of the value at the time of such damage or destruction.
- (6) Modified in any way that would increase the degree of non-conformity of such sign.

Nothing in the chapter shall prevent the strengthening or restoring to a safe condition any portion of a sign or structure declared unsafe by the sign administrator. Such signs may be improved only to the extent that such improvement does not exceed fifty (50) percent of the current market value of the existing structure. (as added by Ord. #601, July 1998, and replaced by Ord. #616, April 1999)

4-1408. Termination of non conforming sign structures. (1) Fifty (50) percent damage. Any permanent non conforming sign or sign structure which

is partially destroyed or damaged by fire, accident, or natural cause beyond fifty (50) percent of its original value shall thereafter be removed or reconstructed in conformance to the regulations of the chapter.

(2) Conformance. Any permanent non conforming sign or sign structure which is improved and altered to comply with provisions of this chapter shall thereafter be considered as conforming.

(3) Annexed areas. Non conforming signs located in areas annexed into the City of Shelbyville shall be subject to the same provisions as non conforming signs in existence when this chapter was initially passed. (as added by Ord. #601, July 1998, and replaced by Ord. #616, April 1999)

4-1409. Removal of non-conforming signs. (1) The following signs are required to be brought into compliance with these regulations within ninety (90) days of the effective date of this chapter: portable signs, temporary signs, signs in residential districts, signs with flashing, chasing, strobing, and blinking lights.

(2) Signs of this type that exist in a non conforming status after the time specified shall be confiscated and disposed of by the city and cost of disposal charged to the owner. (as added by Ord. #601, July 1998, and replaced by Ord. #616, April 1999)

4-1410. Protections of first amendment rights. Any sign, display, or device allowed under these regulations may contain, in lieu of any other copy, any otherwise lawful non-commercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this chapter. (as added by Ord. #601, July 1998, and replaced by Ord. #616, April 1999)

CHAPTER 15

PROPERTY MAINTENANCE CODE

SECTION

4-1501. Property maintenance code adopted.

4-1501. Property maintenance code adopted. The 2009 International Property Maintenance Code¹ is hereby adopted and incorporated by reference. (as added by Ord. #773, April 2005; and amended by Ord. #874, July 2009)

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

CHAPTER 16

ENERGY CONSERVATION CODE

SECTION

4-1601. Energy conservation code adopted.

4-1601. Energy conservation code adopted. The International Energy Conservation Code,¹ 2009 edition, is hereby adopted and incorporated by reference. (as added by Ord. #874, July 2009)

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

TITLE 5

BUSINESSES, PROFESSIONS, AND OCCUPATIONS¹

CHAPTER

1. TAXICABS.
2. CHARITABLE SOLICITATIONS.
3. PEDDLERS, ETC.
4. [DELETED.]
5. MOBILE HOME PARKS.
6. CARNIVALS AND EXHIBITIONS.
7. SHELBYVILLE WRECKER ORDINANCE.
8. YARD SALES.
9. SEXUALLY-ORIENTED BUSINESSES.
10. CABLE TELEVISION--CUSTOMER SERVICE AND CONSUMER PROTECTION STANDARDS.
11. FIRE, BURGLARY AND ROBBERY ALARMS.

CHAPTER 1

TAXICABS²

SECTION

- 5-101. Terminals to be provided.
- 5-102. Solicitation of passengers on streets.
- 5-103. Parking restricted.
- 5-104. Drivers to use direct routes.
- 5-105. Taxicabs not to be used for illegal purposes.
- 5-106. Miscellaneous prohibited conduct by drivers.
- 5-107. Transportation of more than one passenger at the same time.
- 5-108. Mechanical condition of vehicles.
- 5-109. Cleanliness of vehicles.
- 5-110. Liability insurance required.

¹For liquor and beer business regulations in this code, see title 2; for regulations relating to building, plumbing, and wiring, etc., see chapter 6 in this title and also title 4 in this code; for privilege tax provisions, etc., see title 6; for dairy regulations, see section 8-407; for restrictions on posting notices or advertisements and making noise to attract attention, see title 10; and, for zoning provisions, see title 11.

²For privilege tax provisions, see title 6.

5-111. Vehicles exempt from the provisions of this chapter.

5-112. License and permit required for drivers.

5-101. Terminals to be provided. It shall be unlawful for any taxicab company to operate within the city unless it maintains a terminal station or depot. (1979 code, § 5-101)

5-102. Solicitation of passengers on streets. No driver or agency of any taxicab company shall be allowed to solicit passengers upon the streets of the city. (1979 code, § 5-102)

5-103. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not unreasonably to interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1979 code, § 5-103)

5-104. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1979 code, § 5-104)

5-105. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1979 code, § 5-105)

5-106. Miscellaneous prohibited conduct by drivers. It shall be unlawful or any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise unreasonably disturb the peace, quiet, and tranquility of the municipality in any way. (1979 code, § 5-106)

5-107. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1979 code, § 5-107)

5-108. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the municipality unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger

compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1979 code, § 5-108)

5-109. Cleanliness of vehicles. All taxicabs operated in the city shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1979 code, § 5-109)

5-110. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of one hundred thousand dollars (\$100,000.00) for bodily injury or death to any one person, three hundred thousand dollars (\$300,000.00) for bodily injuries or death to more than one person which are sustained in the same accident, and one hundred thousand dollars (\$100,000.00) for property damage resulting from any one accident. The insurance policy required by this section shall contain a provision that it shall not be cancelled except after at least five (5) days' written notice is given by the insurer to both the insured and the city recorder.

The insurance policy shall be filed with the city recorder who shall issue a receipt therefor. The receipt shall show the policy number, the name of the insurance company, the name of the insured, and the make, color, style, and motor or manufacturer's serial number of each vehicle covered by the policy. A copy of such receipt shall be kept in each insured taxicab and shall be exhibited by the driver to any police officer upon request and to any person or such person's agent, who is injured or damaged by such vehicle. (1979 code, § 5-111)

5-111. Vehicles exempt from the provisions of this chapter. The provisions of this chapter shall not be applicable to motor busses or other motor vehicles engaged in the carriage of passengers or their luggage for hire that are subject to the jurisdiction of the Public Service Commission of the state, nor to motor busses operated in the city under franchises granted by the city where other provisions are made by ordinance or otherwise for the carrying of liability insurance or the filing of bonds against liability for death, personal injuries, or property damage. (1979 code, § 5-112)

5-112. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license. (1979 code, § 5-113)

CHAPTER 2

CHARITABLE SOLICITATIONS

SECTION

- 5-201. Permit required.
- 5-202. Prerequisites for a permit.
- 5-203. Denial of a permit.
- 5-204. Exhibition of permit.
- 5-205. Permit fee.
- 5-206. Road blocks.

5-201. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable, educational, or religious purpose without a permit from the city recorder authorizing such solicitation. Neither shall any organization conduct a road block upon the streets of the City of Shelbyville without a permit from the city recorder, upon approval by the chief of police, nor hold any demonstrations. (1979 code, § 5-201)

5-202. Prerequisites for a permit. The recorder shall, upon application, issue a permit authorizing charitable, educational or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

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

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

(3) The applicant has not engaged in any fraudulent transaction or enterprise, nor has the applicant created any disturbance, or any breach of the peace in any other city where the applicant was granted the right to solicit funds or hold road blocks in that city.

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1979 code, § 5-202)

5-203. Denial of a permit. Any applicant for a permit to make charitable, educational, or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1979 code, § 5-203)

5-204. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1979 code, § 5-204)

5-205. Permit fee. A permit fee of twenty five dollars (\$25.00) will be charged each applicant to defray the cost of investigation which will be conducted by the chief of police. (1979 code, § 5-205)

5-206. Road blocks. Hereafter it shall be unlawful for any person or group of persons, or members of charitable organizations, or any other firm or corporation to solicit funds upon any of the public streets or highways of the City of Shelbyville, Tennessee by conducting a road block or by any other method whereby vehicles traveling upon a street or highway are stopped and charitable solicitations or contributions are sought unless a permit has been issued by the city recorder. No permit shall be issued where the road block is determined by the chief of police to be adverse to the health, safety and welfare of the traveling public. (1979 code, § 5-206)

CHAPTER 3

PEDDLERS, ETC.¹

SECTION

- 5-301. Definitions.
- 5-302. Permit required.
- 5-303. Exemptions.
- 5-304. Application for permit.
- 5-305. Issuance or refusal of permit.
- 5-306. Appeal.
- 5-307. Bond.
- 5-308. Loud noises and speaking devices.
- 5-309. Use of streets.
- 5-310. Exhibition of permit.
- 5-311. Policemen to enforce.
- 5-312. Revocation or suspension of permit.
- 5-313. Reapplication.
- 5-314. Expiration and renewal of permit.
- 5-315. Violation and penalty.
- 5-316. Severability clause.

5-301. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

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

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

¹Municipal code references

Privilege taxes: title 6.

Trespass by peddlers, etc.: section 10-801.

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" organization for charitable or religious organizations.

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

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

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

¹State law reference

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

The definition of "transient vendors" is taken from Tennessee Code Annotated, section 67-4-709(a)(19). Note also that Tennessee Code Annotated, section 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 Tennessee Code Annotated, section 67-4-709(b).

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. (as replaced by Ord. #508, June 1994)

5-302. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-303. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic, or philanthropic organizations, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-304. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
- (5) The length of time for which the right to do business is desired.
- (6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.
- (7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator properly to evaluate the applicant's moral reputation and business responsibility.
- (8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance, and, if so, the nature of the offense and the punishment or penalty assessed therefor.

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

(10) At the time of filing the application, a fee of fifty and no/100 dollars (\$50.00) shall be paid to the city to cover the cost of investigating the facts stated therein. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994).

5-305. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

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

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory, the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by section 5-206. The city recorder shall keep a permanent record of all permits issued. (as amended by Ord. #477; replaced by Ord. #505, March 1994; and renumbered by Ord. #508, June 1994)

5-306. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-307. Bond. Every permittee shall file with the city recorder a corporate surety or cash bond running to the city in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the City of Shelbyville and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be and shall guarantee to any resident of the city that all money paid as a down payment will be accounted for and applied according to the representations of

the permittee, and further guaranteeing to any resident of the city doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-308. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention of any goods, wares, or merchandise which such permittee proposes to sell. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-309. Uses of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted to operate in a congested area which such operation might impede or inconvenience the public use of such street. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-310. Exhibition of Permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (as replaced by Ord. #505, March 1994 and renumbered by Ord. #508, June 1994)

5-311. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-312. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen, after notice and hearing for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained in the application for permit or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.
- (b) Any violation of this chapter.
- (c) Conviction of any crime or misdemeanor.

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

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

(3) When it is reasonably necessary in the public interest, the mayor may suspend a permit pending the revocation hearing. (as added by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-313. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (as added by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-314. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (as added by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-315. Violation and Penalty. Violations of any provisions of this chapter shall upon conviction be punished by a fine of not less than two and no/100 dollars (\$2.00) nor more than fifty and no/100 dollars (\$50.00) and in addition thereto shall pay all costs. Each separate day such violation is continued shall constitute a separate offense. (as added by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-316. Severability clause. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable. (as added by Ord. #505, March 1994, and replaced by Ord. #508, June 1994).

CHAPTER 4

[DELETED.]

This chapter was deleted by Ord. #506, April 1994.

CHAPTER 5

MOBILE HOME PARKS¹

SECTION

5-501. Definitions.

5-502. License and temporary permit.

5-503. License fees and temporary permit fees.

5-504. Application for license.

5-505. Supervision.

5-506. Revocation of license.

5-507. Posting of license and temporary permit.

5-501. Definitions. As used in this chapter:

(1) "Dependent mobile home" means a mobile home which does not have a flush toilet and a bath or shower.

(2) "Independent mobile home" means a mobile home which has a flush toilet and a bath or shower.

(3) "Licensee" means any person licensed to operate and maintain a mobile home park under the provisions of this chapter.

(4) "Mobile home" means any factory-manufactured mobile home as defined in T.C.A. § 65-36-202(4), (6), and (7).

(5) "Mobile home park" means any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

(6) "Mobile home space" means a plot of ground within a mobile home park designed for the accommodation of one mobile home.

(7) "Multiple dwelling" means any structure designed and intended to accommodate more than one family and includes but is not limited to duplex buildings, group houses, and apartment buildings.

(8) "Natural or artificial barrier" means any river, pond, canal, railroad, levee, embankment, fence, or hedge.

(9) "Park" means mobile home park.

(10) "Permittee" means any person to whom a temporary permit is issued to maintain or operate a mobile home park under the provisions of this chapter.

(11) "Person" means any natural individual, firm, trust, partnership, association, or corporation. (1979 code, § 5-701)

5-502. License and temporary permit. (1) It shall be unlawful for any person to maintain or operate a mobile home park within the limits of the city,

¹For license and tax provisions, see section 5-703 and title 6 in this code.

unless such person shall first obtain a license therefor, except that the maintenance or operation of a mobile home park in existence on the effective date of this chapter may be continued under a temporary permit for such period of time and under such conditions as are hereinafter prescribed.

(2) A temporary permit, upon written request therefor, shall be issued by the city building inspector for every mobile home park in existence upon the effective date of this chapter, permitting the park to be maintained and operated during the period ending 180 days after the effective date of this chapter, without being subject to the provisions of this chapter, except such of the provisions as are made expressly applicable to such permittees.

(3) The term of the temporary permit shall be extended, upon written request, for not to exceed one additional period of 180 days, if (a) the permittee shall have filed application for a license in conformity with section 5-504 within 90 days after the effective date of this chapter, (b) the permittee is of good moral character, and the park plans and specifications accompanying the application for license comply with all provisions of this chapter and all other applicable ordinances and statutes, (c) the permittee shall have diligently endeavored to make the existing park conform fully to the plans and specifications submitted with the application, and (d) failure to make the existing park conform fully to such plans and specifications shall have been due to causes beyond the control of permittee. (1979 code, § 5-702)

5-503. License fees and temporary permit fees. (1) The annual license fee for each mobile home park shall be \$10.00 per annum plus \$2.00 per space.

(2) The fee for transfer of a license shall be \$5.00.

(3) The temporary permit fee for each 180-day period shall be one-half of the annual license fee prescribed in subsection (1) of this section. (1979 code, § 5-703)

5-504. Application for license. (1) Application for initial license. The application for an initial mobile home park license shall be filed with and issued by the city building inspector. The application shall be in writing, signed by the applicant and shall include the following:

- (a) The name and address of the applicant.
- (b) The location and legal description of the mobile home park.
- (c) A complete plan of the park in conformity with the requirements of the zoning ordinance.¹
- (d) Plans and specifications of all buildings, improvements and facilities constructed or to be constructed with the mobile home park.

¹Ordinance No. 436, titled "Zoning Ordinance of Shelbyville, Tennessee," and any amendments thereto, are of record in the office of the city recorder.

(e) Such further information as may be requested by the city building inspector to enable him to determine if the proposed park will comply with legal requirements.

The application and all accompanying plans and specifications shall be filed in triplicate. The city building inspector shall investigate the applicant and inspect the application and the proposed plans and specifications. If the applicant is of good moral character, and the proposed mobile home park will, when constructed or altered in accordance with such plans and specifications, be in compliance with all provisions of this chapter and all other applicable ordinances and statutes, the city building inspector and Shelbyville Planning Commission shall approve the applications, and upon completion of the park according to the plans, the city building inspector shall approve the application and issue the license.

(2) Application for renewal license. Upon application in writing by a licensee for a renewal of a license and upon payment of the annual license fee, the city building inspector shall issue a certificate renewing such license for another year.

(3) Application for transfer of license. Upon application in writing for transfer of a license and payment of the transfer fee, the city building inspector shall issue a transfer if the transferee is of good moral character. (1979 code, § 5-704)

5-505. Supervision. The licensee or permittee, or a duly authorized attendant or caretaker, shall be in charge at all times to keep the mobile home park, its facilities, and equipment in a clean, orderly, and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provision of this chapter to which the licensee or permittee is subject. (1979 code, § 5-715)

5-506. Revocation of license. The city building inspector may revoke any license to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this chapter. After such conviction, the license may be reissued if the circumstances leading to the revocation have been remedied and the park is being maintained and operated in full compliance with the law. (1979 code, § 5-716)

5-507. Posting of license and temporary permit. The license certificate or temporary permit shall be conspicuously posted in the owner's office or on the premises of the mobile home park at all times. (1979 code, § 5-717)

CHAPTER 6

CARNIVALS AND EXHIBITIONS

SECTION

- 5-601. License required.
- 5-602. Definitions.
- 5-603. Requirements for license.
- 5-604. Licenses--fees.
- 5-605. Insurance.
- 5-606. Revocation, suspension, limitation of permit.
- 5-607. Posting license.
- 5-608. Form of license application.
- 5-609. Sunday closing.
- 5-610. Admittance of officers.
- 5-611. Medicine shows.
- 5-612. Order--crowding.
- 5-613. Inspections.
- 5-614. Indecent shows.
- 5-615. Exhibitions of criminals.
- 5-616. Riots.
- 5-617. Health requirements.
- 5-618. Traffic congestion.
- 5-619. Appeal of denial of issuance of permit.
- 5-620. Expiration and renewal of permit.

5-601. License required. It shall be unlawful to conduct or operate within the city any exhibitions or carnivals which are open to the public without first securing a license therefore; provided, that this section shall not be held to apply to those amusements or exhibitions which are specifically licensed in other sections of this chapter or other chapter in this code. (as added by ord. No. 421)

5-602. Definitions. The term "exhibitions" as used in this chapter shall be held to mean and include circuses, menageries, carnivals, side shows and other similar amusements enterprises which are open to the public and for admission to which a fee is charged.

The term "carnival" as used herein shall mean and include amusement activities, rides, merry-go-rounds, booths for the conduct of games of skill, food dispensing facilities and sideshows. A carnival shall not include gambling devices, games of chance, lotteries, punch boards or other activities in violation of city ordinances. (as added by ord. No. 421)

5-603. Requirements for license. In addition to other requirements set forth herein the applicant shall furnish suitable evidence of his intention and

ability to comply with the following conditions: The operator and sponsor of the carnival or exhibition shall each be wholly responsible for maintaining order, and for keeping the site clean, free of trash, papers and other debris. Trash containers in adequate number shall be placed in convenient locations for the use of the public. No placard or signs shall be placed on any telephone poles and any signs posted shall be removed after the show. Adequate safeguards shall be placed to protect both operators and the general public from inadvertently coming into contact with moving parts, belts, motor gears, electrical switches and other possible or potential hazards and all rides shall have state approval (if required). (as added by ord. No. 421)

5-604. Licenses--fees. Satisfactory application being made and approved by the city manager, the city clerk shall thereafter issue such license upon the payment of a license fee of \$100.00.

Provided further, that no fee shall be charged for any amusement, exhibition or carnival where the same is sponsored by or given for the benefit of any religious, educational, charitable, social or fraternal organization. (as added by ord. No. 421)

5-605. Insurance. No license shall be issued for conducting an exhibition or carnival until the applicant therefor has placed on file with the city clerk a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damages arising out of the use and operation of any and all devices and facilities operated in connection with such carnival or exhibition. Such insurance shall be in the minimum amount required by the State of Tennessee. (as added by ord. No. 421)

5-606. Revocation, suspension, limitation of permit. (1) Permits issued, or to be issued under the provisions of this chapter may be revoked or denied by the city manager for the following causes: (a) any act inconsistent with good business responsibility, including but not limited to fraud, misrepresentation contained in the application for permit, or during the course of carrying on of the business, (b) any such act in violation of the other ordinances of the City of Shelbyville or a breach of the peace, (c) any action that constitutes a menace to the health safety and general welfare of the public. (as added by ord. No. 421)

5-607. Posting license. It shall be the duty of any person conducting a licensed business in the city to keep his license posted in a prominent place on the premises used for such business at all times. (as added by ord. No. 421)

5-608. Form of license application. The applicant shall provide the following information. The undersigned hereby applies for a license to conduct the business of in the City of Shelbyville, and states the following facts are true:

1. Name under which business is to be conducted _____.

2. Name of applicant. (If a corporation, give names and addresses of president and secretary; if a partnership, give names and addresses of all partners). _____.

3. President residence _____.

4. Address of business to be conducted _____.

_____.

5. Nature of business. _____.

6. Residence of applicant during past five years (if individual). _____.

_____.

7. The applicant has never had a license to conduct the business herein described denied or revoked, excepting as noted. _____.

_____.

8. The applicant (including all partners or the officers, if a corporation) has never been convicted of a felony. _____.

The undersigned makes these statements above to induce the City of _____ to issue the license herein applied for, and agrees to comply with all laws and ordinances of the city applicable to the subject matter thereof.

Signed this _____ day of _____, 19__.

(If applicant is a corporation, show office held
by person signing. (as added by ord. No. 421)

5-609. Sunday closing. it shall be unlawful to operate or permit the operation of any carnival between the hours of 12 o'clock midnight on Saturday and 2 p.m. on Sunday of any week. (as added by ord. No. 421)

5-610. Admittance of officers. Sufficient members of the police department shall be admitted free of charge to all exhibitions for the purpose of preserving and maintaining order. (as added by ord. No. 421)

5-611. Medicine shows. It shall be unlawful to give or conduct any medicine show or performance in connection with or for the purpose of attracting prospective buyers of, or crowds for the purpose of lectures on or demonstrations of any tonic, medicine, remedy or alleged specific for human ailments without having first secured a permit therefor. Applications for such permits shall state thereon the name, nature and contents of the article to be promoted or offered for sale; such applications shall be referred to the chief of police and no permit shall be issued where such tonic, medicine or remedy is harmful for use without the advice of a physician or consists in whole or part of harmful habit forming drugs or narcotics. (as added by ord. No. 421)

5-612. Order--crowding. The audience of any amusement show, or theatrical performance must be orderly and quiet at all times, and it shall be

unlawful for any person attending such amusement, show or theatrical performance to create a disturbance in the audience.

It shall be unlawful to permit or gather such a crowd to witness any such amusement or show as to create a dangerous condition because of fire or other risks. (as added by ord. No. 421)

5-613. Inspections. It shall be the duty of the chief of police and the fire marshal to see that every exhibition, amusement, theatrical performance or other public show or amusement is inspected by a member of the police and of the fire department, and to insure conformity with the provisions concerning such amusements. (as added by ord. No. 421)

5-614. Indecent shows. It shall be unlawful for any person, firm or corporation to present, exhibit, conduct or take part in any indecent show, theatrical performance, play, motion picture, exhibition or other form of public amusement or show. (as added by ord. No. 421)

5-615. Exhibitions of criminals. It shall be unlawful to exhibit any criminal or the body of any criminal or any person who shall have become notorious because of the commission of a crime in any theatrical performance, exhibit, carnival or other public place. (as added by ord. No. 421)

5-616. Riots. It shall be unlawful to present any public amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance. (as added by ord. No. 421)

5-617. Health requirements. The license issued pursuant to this section shall be subject to the licensee being fully inspected by any health official. Adequate public restroom facilities for both men and women shall be provided, and same shall be maintained in a clean, disinfected and usable manner at all times. All food shall be prepared and served in accordance with state requirements. All food, toilet and other facilities which will affect the health of citizens shall be subject to inspection at all times, and violation of any regulations shall be grounds for termination or suspension of license until any violation is remedied. (as added by ord. No. 421)

5-618. Traffic congestion. The licensee and/or its sponsor shall be required to maintain a free flow of travel, and parking shall be provided so as to maintain same. The issuance of this license shall be subject to the condition that proper parking and/or the location is suitable to provide a free flow of traffic. Rejection of the license may be based solely and alone upon a creation of traffic congestion. (as added by ord. No. 421)

5-619. Appeal of denial of issuance of permit. Any person aggrieved by the action of the city manager in the denial of a permit shall have the right to appeal to the city council. Such an appeal shall be taken by filing with the city manager within 14 days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The city manager shall set a time and place for a hearing on such an appeal and notice of the time and place for such hearing shall be given to the applicant. The notice shall be in writing and shall be mailed to applicant at his last known address at least 5 days prior to the date set for the hearing, or shall be delivered by a police officer in the same manner as a summons, at least 3 days prior to the date of the hearing. (as added by ord. No. 421)

5-620. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the privilege license expires. Permits issued to those who are not subject to a privilege tax shall be issued for 12 months. An application for renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (as added by ord. No. 421)

CHAPTER 7

SHELBYVILLE WRECKER ORDINANCE¹

SECTION

5-701. Purpose.

5-702. Definitions.

5-703. Solicitation prohibited.

5-704. Non-consent towing agreements.

5-705. Rules and procedures.

5-706. Police to determine vehicle's need for wrecker service.

5-707. Police to determine wrecker service when owner is unable or unwilling to designate.

5-708. Police prohibited from influencing owner's choice of wrecker service.

8-709. Police may request wrecker service for any vehicle in violation of city regulations or ordinances.

5-710--5-724. Deleted.

5-701 Purpose. The purpose of this chapter is to provide for regulations and procedures for the removal of motor vehicles from the streets of the city when a vehicle is parked, stopped or standing in violation of any regulation or ordinance of the City of Shelbyville, or is parked, stopped or standing so as to obstruct the orderly flow of traffic, or is disabled by an accident and constitutes an obstruction to traffic and its immediate removal or storage for safekeeping is necessary in the interest of safety and protection of property, and to provide for regulations and procedures for wrecker service operators who are engaged by the city to remove such vehicles. (as added by Ord. #494, Aug. 1993, replaced by Ord. #744, July 2004, and Ord. #840, Jan. 2008)

5-702 Definitions. (1) "City schedule wrecker service" means any wrecker service that has entered into an agreement with the City of Shelbyville to provide non-consent towing.

(2) "Street" means any street, alley, public place, square, highway, or thoroughfare within the corporate limits of the city.

(3) "Non-consent tow" or "non-consent towing" is towing without the prior consent or authorization of the owner or operator to be towed or towing in an emergency situation when the owner or operator does not request a particular towing company or cannot arrange for the towing of their vehicle in such emergency situation in accordance with Shelbyville Police Department regulations, rules and procedures.

¹A copy of the Shelbyville Police Department Wrecker Service Rules and Regulations is available in the city recorder's office.

(4) "Wrecker service" means the towing, transporting, conveying, or removal of vehicles from one point to another within the area of the municipal government, or a business engaged in such activities. (as added by Ord. #494, Aug. 1993, replaced by Ord. #744, July 2004, and Ord. #840, Jan. 2008)

5-703 Solicitation prohibited. No person shall solicit in any manner, direct or indirect, on the streets of the city the business of towing any vehicle which is wrecked or disabled on a public street, regardless of whether the purpose of such solicitation is the towing, removing, repairing, wrecking, storing, trading, or purchasing such vehicle. (as added by Ord. #494, Aug. 1993, replaced by Ord. #744, July 2004, and Ord. #840, Jan. 2008)

5-704 Non-consent towing agreements. The city shall enter into agreements with wrecker services to provide non-consent towing for the Shelbyville Police Department as a city schedule wrecker service. Any wrecker service that is on the Tennessee Highway Patrol wrecker schedule or that meets all the requirements for inclusion on THP wrecker schedule and that meets the requirements of the current State of Tennessee Department of Public Safety Towing Service Standards Manual and the regulations established under this ordinance is eligible to be a city schedule wrecker service. (as added by Ord. #494, Aug. 1993, replaced by Ord. #744, July 2004, and Ord. #840, Jan. 2008)

5-705 Rules and procedures. In order to provide for the public safety, the Shelbyville Police Department shall establish regulations, rules and procedures for the operation of contract wrecker services. Such regulations or any changes thereto shall not be effective until approved by resolution of the Shelbyville City Council. The regulations shall provide for the following:

- (1) Insurance requirements for contract wrecker services;
- (2) Owner, operator, and driver requirements;
- (3) Impound lot requirements;
- (4) Wrecker service record keeping and reporting;
- (5) Wrecker classifications and equipment requirements;
- (6) Operating procedures; and,
- (7) Such other regulation, rule or procedure as required to protect the public welfare. (as added by Ord. #494, Aug. 1993, replaced by Ord. #744, July 2004, and Ord. #840, Jan. 2008)

5-706 Police to determine vehicle's need for wrecker service. Police officers investigating an accident shall determine if any vehicle involved in a collision or accident on a public street is unable to proceed safely under its own power, or if the owner or driver thereof is physically unable to drive such vehicle, or if the vehicle's location is a hazard to public safety, and if so, the officers shall ask the owner or driver thereof to designate a wrecker service to

remove the vehicle. The officer shall communicate the name of the designated wrecker service immediately to the police dispatcher, who shall call the designated company and request that it send a wrecker to the scene of the accident. (as added by Ord. #494, Aug. 1993, replaced by Ord. #744, July 2004, and Ord. #840, Jan. 2008)

5-707 Police to designate wrecker service when owner is unable or unwilling to designate. In the event a vehicle requires removal from the city streets, and the owner or driver is unable or unwilling to designate a wrecker service for such removal, police officers will communicate that to the police dispatcher who will contact a city schedule wrecker service to remove the vehicle. In the event a wrecker service designated by the owner or driver of the vehicle is unable to respond to the request within the time required for response in the Shelbyville police regulations governing contract wrecker services, the dispatcher will contact a city schedule wrecker service to remove the vehicle. (as deleted by Ord. #744, July 2004 and replaced by Ord. #840, Jan. 2008)

5-708 Police prohibited from influencing owner's choice of wrecker service. No police officer investigating or present at the scene or site of any wreck, accident, or collision on a street shall, directly or indirectly, either by word, gesture, sign or otherwise, recommend to any person the name of any particular wrecker service or repair business, or attempt to influence in any manner the decision of any person in choosing a wrecker or repair service. (as deleted by Ord. #744, July 2004 and replaced by Ord. #840, Jan. 2008)

5-709 Police may request wrecker service for any vehicle in violation of city regulations or ordinances. Whenever any vehicle is parked, stopped or standing in violation of any regulation or ordinance of the City of Shelbyville, or is parked, stopped or standing so as to obstruct the orderly flow of traffic, police officers directing its removal shall request a wrecker service from the police dispatcher who will contact a city schedule wrecker service for such removal. (as deleted by Ord. #744, July 2004 and replaced by Ord. #840, Jan. 2008)

5-710--5-724. Deleted. (as deleted by Ord. #744, July 2004)

CHAPTER 8

YARD SALES

SECTION

- 5-801. Definitions.
- 5-802. Number of sales allowed.
- 5-803. Property permitted to be sold.
- 5-804. Hours of operation.
- 5-805. Display of sale property.
- 5-806. Advertising.
- 5-807. Persons exempted from chapter.
- 5-808. Violations and penalty.

5-801. Definitions. For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein.

(1) "Garage sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance (municipal code reference, zoning ordinance: title 11, chapter 2) for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage", "lawn", "yard", "attic", "porch", "carport", "room", "backyard", "patio", "flea market", or "rummage sale". This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold.

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased or secured for resale or obtained on consignment. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-802. Number of sales allowed. It shall be unlawful for any person within the corporate limits of the city to conduct more than four (4) three day yard sales in a residential area in any calendar year. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-803. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, any property other than personal property. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-804. Hours of operation. Garage sales shall be limited in time from sunrise to sunset on three consecutive days. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-805. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-806. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:

(a) Two signs permitted. Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property of the residence or nonresidential site where the garage sale is being conducted.

(b) Directional signs. Two (2) signs of not more than two (2) square feet each are permitted, provided that the premises on which the garage sale is conducted is not on a major thoroughfare, and written permission to erect such signs is received from the property owners on whose property such signs are to be placed.

(2) Time limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence.

(3) Removal of signs. Signs must be removed at the close of the garage sale activities. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-807 Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the City of Shelbyville, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-808. Violations and penalty. Any person found guilty of violating the terms of this chapter shall be subject to a penalty to be determined by the city

court for each offense. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

CHAPTER 9

SEXUALLY-ORIENTED BUSINESSES

SECTION

- 5-901. Purpose and findings.
- 5-902. Definitions.
- 5-903. Sexually oriented business licensing board.
- 5-904. Inspections and inspectors.
- 5-905. License required.
- 5-906. Application for license.
- 5-907. Standards for issuance of license.
- 5-908. Permit required.
- 5-909. Application for permit.
- 5-910. Standards for issuance of permit.
- 5-911. Fees.
- 5-912. Display of license or permit.
- 5-913. Renewal of license or permit.
- 5-914. Revocation of license or permit.
- 5-915. Hours of operation.
- 5-916. Responsibilities of the operator.
- 5-917. Prohibitions and unlawful sexual acts.
- 5-918. Penalties and prosecution.
- 5-919. Invalidity of part.
- 5-920. Denial of applications or renewals.

5-901. Purpose and findings. This part shall be known as the "Sexually-Oriented Registration Act of 1998."

(1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious 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 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 material.

(2) Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in reports made available to the council, 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), *Barnes v. Glen Theatre, Inc.*, 111 S. Ct. 2456 (1991), *Triplett*

Grille, Inc. V. City of Akron, 40 f. 3d 129 (6th cir. 1994), and Northend Cinema Inc. V. Seattle, 585 P. 2d 1153 (Wash. 1978), and on studies in other communities including, not not limited to Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Chattanooga, Tennessee; Memphis, Tennessee; and Beaumont, Texas; and also on findings found in the Report of Attorney General's Working Group on the Regulation of Sexually Oriented businesses, (June 7, 1989, State of Minnesota), the council finds:

(a) Sexually oriented businesses in the city 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 the owners of these establishments responsible for the activities that occur on the premises.

(b) Certain employees of sexually oriented businesses defined in this chapter as adult theatres and cabarets engage in higher incident of certain types of sexually oriented behavior at these businesses than employees of other establishments.

(c) Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows, as defined under this chapter as adult book stores, adult novelty shops, adult video stores, adult motion picture theatres, or adult arcades.

(d) Offering and providing such space, encourages such activities, which create unhealthy conditions.

(e) Persons frequent certain adult theatres, adult arcades, adult cabarets, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

(f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

(g) As of June 30, 1995, there have been 5,672 reported cases of persons with AIDS and 6,277 persons testing positive for the HIV antibody test in the State of Tennessee.

(h) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.

(i) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-million cases being reported in 1990.

(j) The surgeon general of the United States in his report of October 22, 1986 has advised the American public that AIDS and HIV

infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(k) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(l) 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 operators of the facilities to self-regulate those activities and maintain those facilities.

(m) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

(n) In Memphis/Shelby County, Tennessee, deputies and police officers investigating exotic dance clubs found numerous obscenity violations, physical contact between fully nude dancers and patrons including fondling of dancers and full sexual intercourse, a variety of other sexual contact including fellatio, solicitation offered (sex for hire), undercover narcotics buys, different acts of violence, runaway juveniles and allegations of white slavery. Another officer testified that 90-95% of the dancers use drugs (cocaine, crack, methamphetamine), that clubs do not report crimes because they do not want police involved, and that he saw three girls performing five sex acts in 15 minutes. Further, the Manager of Infectious Disease at Shelby County Health Department testified that in one topless club, out of 9 females arrested, 8 tested positive for VD and that there is a very close relationship between prostitution and these clubs.

(o) Out of 26 females arrested at BOTTOMS UP, a topless bar in Memphis, 14 had a medical record at the Shelby County STD Clinic.

(p) According to Chattanooga City Police investigating exotic dance clubs since 1993, there has been a considerable amount of bodily contact between patrons and dancers, dancers sometimes: sit in patron's lap; place their breast against the patron's face; while physical contact is maintained gyrate in such a manner as to stimulate sexual intercourse; breathe heavily into a patron's groin area; bite at, gnaw at, as well as fondle, the genitals of male patrons; pulled patrons into their vaginal areas; allowed patrons to spoon feed themselves with whipped cream that had been spread on the breasts, vaginal, and anal areas of the dancer; and have had patrons place a peeled banana between their legs while female "dancers" have eaten the banana.

(q) The Federal Court for Eastern District of Tennessee at Chattanooga found that Chattanooga's adult cabarets displayed tactile,

body contact, sexual experiences tantamount to prostitution as defined in TCA 39-13-512(5).

(r) The findings noted in paragraphs (a) through (q) raise substantial government concerns.

(s) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial government concerns.

(t) Requiring that entertainers at adult oriented establishments: not appear in a state of full nudity, without interfering in their right to free expression, according to the latest restrictive means possible as found in *Barnes v. Glen theatre, Inc.*, and *Triplett Grille, Inc., v. City of Akron*; not dance closer to patron than six feet; not mingle with patrons as found in *city of New Orleans v. Kiefer* 164 Southern Reporter 2d 3367 (Supreme Court of Louisiana 1964); not solicit any pay or gratuity from any patron as found in *KEV v. Kitsap County* 793 F.2d 1053 (9th Cir. 1986); and not fondle any patron or other entertainer or allow any other entertainer or patron to fondle them will help reduce the incidence of certain types of criminal behavior on the premises of sexually oriented businesses which leads to the transition of sexually oriented diseases.

(u) The general welfare, health, and safety of the citizens of the City of Shelbyville will be promoted by the enactment of this chapter. (Ord. #596, April 1998)

5-902. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Sexually-oriented businesses or sexually-oriented establishments," includes, but is not limited to, "sexually-oriented bookstores," "sexually-oriented motion picture theaters," "sexually-oriented mini-motion picture establishments," "sexually-oriented cabarets," "escort agency," "sexual encounter center," "massage parlor," "rap parlor," "sauna," and further means any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing sexually-oriented entertainment to a member of the public, a patron or a member, when such sexually-oriented entertainment is held, conducted, operated or maintained for a profit, direct or indirect. A "sexually-oriented business or sexually-oriented establishment" further includes without being limited to, any "sexually oriented entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as a sexually-oriented entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort or any other term of like import.

(2) "Sexually-oriented bookstore" means an establishment having as a substantial or significant portion of its stock in trade, books, films, video cassettes, magazines, computer software, or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below), or an establishment with a segment or section devoted to the sale or display of such material.

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

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

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

(6) "Board" means the Sexually-oriented Establishment Licensing Board of the City of Shelbyville, Tennessee.

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

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

(9) "Sexually-oriented entertainment" means any exhibition of any sexually-oriented motion pictures, live performance, display or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other person service offered customers.

(10) "Operator" means any person, partnership, or corporation operating, conducting or maintaining a sexually-oriented business or sexually oriented establishment.

(11) "Specified sexual activities" means:

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy;
- (c) Fondling or erotic touching of human genitals, pubic region, buttock or female breast.

(12) "Specified anatomical areas" means:

- (a) Less than completely and opaquely covered;
 - (i) Human genitals, pubic region;
 - (ii) Buttocks;
 - (iii) Female breasts below a pint immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

(13) "Escort" means a person who, for monetary consideration in the form of a fee, commission, salary or tip, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any private quarters of a place of public resort.

(a) A "service oriented escort" is an escort which:

- (i) Operates from an open office.
- (ii) Does not employ or use an escort runner; and
- (iii) Does not advertise that sexual conduct will be provided to the patron or work for an escort bureau which so advertises; and
- (iv) Does not offer or provide sexual conduct.

(b) A "sexually oriented escort" is an escort which:

- (i) Employs as an employee, agent, or independent contractor an escort bureau runner; or
- (ii) Works for, as an agent, employee, contractor, or is referred to a patron by a sexually oriented escort bureau; or
- (iii) Advertises, that sexual conduct will be provided, or works for, as an employee, agent or independent contractor or is referred to a patron by an escort bureau which so advertises; or

(iv) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual for a fee in addition to the fee charged by the escort bureau; or

(v) Works as an escort without having a current valid permit issued under this chapter, in his or her possession at all times while working as an escort; or

(vi) Accepts a fee from a patron who has not first been delivered a contract.

(14) "Escort service" means a person as defined herein, who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts.

(a) A "service oriented escort bureau" is an escort bureau which:

(i) Maintains an open office at an established place of business; and

(ii) Employs or provides only escorts which possess valid permits issued under this chapter; and

(iii) Does not use an escort bureau runner; and

(iv) Does not advertise that sexual conduct will be provided to a patron.

(b) A "sexually oriented escort bureau" is an escort bureau which:

(i) Does not maintain an open office; or

(ii) Employs as an employee, agent or independent contractor, uses an escort bureau runner; or

(iii) Advertises that sexual conduct will be provided, or that escorts which provide such sexual conduct will be provided, referred, or introduced to a patron; or

(iv) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron; or

(v) Employs, contracts with or provides or refers escorts who do not possess valid permits issued under this chapter; or

(vi) Does not deliver contracts to every patron or customer; or

(vii) Employs, contracts with a sexually oriented escort or refers or provides to a patron, a sexually oriented escort.

(15) "Open office" means an office at the escort service from which the escort business is transacted and which is open to patrons or prospective patrons during all hours during which escorts are working, which is managed or operated by an employee, officer, director or owner of the escort service having authority to bind the service to escort and patron contracts and adjust patron and consumer complaints.

(16) "Person" means an individual, partnership, limited partnership, firm, corporation or association.

(17) "Specified criminal acts" means sexual crimes against children, sexual abuse, rape, indecent exposure, distribution of obscenity, distribution of obscenity or harmful material to minors, prostitution, pandering, or tax violations, possession or distribution of child pornography, engaging in organized criminal activity, gambling, distribution of controlled substances, or similar offenses described above under the criminal code or penal code of other states or countries.

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

(19) "Sexual gratification" means "sexual conduct or sexual activity" as defined in this chapter.

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

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

(22) "Sexual encounter center" means a business or commercial enterprise that, as one of its primary 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) Physical contact between male and female persons and/or persons of the same sex when one or more of the persons exposes to view of the persons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely by translucent material.

(23) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services where one or more of the employees exposes to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material.

(24) "Rap parlor" means an establishment or place which has as one of its principle business purposes the providing of nonprofessional conversation or similar service for adults where employees appear in a state of nudity or semi-nude condition as defined and/or displayed to patrons within said establishment "specified anatomical areas" or perform for the benefit of the patron(s) "specified sexual activities."

(25) "Sauna" means an establishment or place which has as one of its principle business purposes the providing of steam baths and which features employees in a state of nudity or semi-nude condition (as defined), and/or

displays to patrons with said establishment "specified anatomical areas" or perform for the benefit of the patron(s) "specified sexual activities."

(26) "Nudity" means the showing of the bare human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast below a horizontal line across the top of the areola at its highest point with less than a fully opaque covering, or the showing of the covered male genitals in a discernable turgid state. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or part.

(27) "Semi-nude" means a state of dress in which clothing covers no more than the male or female genitals and pubic region, and of the female breast below a horizontal line across the top of the areola at its highest point with less than a fully opaque covering.

(28) "Mingle" means to associate or unite, as things by interspersing of persons by ties of relationship or to fraternize or join in company. Mingle does not include the serving of beverages or goods to a patron by an employee during the normal course of bartending or waiting. (Ord. #596, April 1998)

5-903. Sexually oriented business licensing board. (1) Membership and duties:

(a) The board shall consist of five members, who shall have been residents of Shelbyville for not less than one year, and who shall continue to be eligible so long as they reside in the city, appointed by the mayor, and approved by the city council. The board members shall serve at the pleasure of the mayor and city council until the expiration of their terms.

(b) At least one of the five members shall be an attorney, and one of the five members shall be a health provider.

(c) Of the five members first appointed, two shall be appointed for a term of two years, and two shall be appointed for a term of three years, and one shall be appointed for a term of four years. Thereafter, each member shall be appointed for a term of four years, and shall serve until his successor is appointed. Any vacancy other than the expiration of terms shall be filled for the unexpired term.

(d) The board shall select a chair and vice-chair from among its members and the chair shall notify interested persons and members of board meetings. The chair and vice-chair shall serve for a period of one year, or until a successor shall have been chosen.

(e) A majority of the members to which the board is entitled shall constitute a quorum.

(f) The board shall meet each month at a time fixed by the board, and may hold such special meetings as may be necessary.

(g) 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 license and/or permit. The concurring vote of a majority of the members present and voting shall be necessary for the granting, revoking, suspending, or any other action involving licenses or permits.

(h) The board shall serve without compensation.

(2) Powers and duties:

(a) The board shall have jurisdiction over the licensing, regulating and controlling of all sexually-oriented businesses as provided herein, located within the City of Shelbyville.

(b) The board has the power to subpoena witnesses to testify before the board. (Ord. #596, April 1998)

5-904. Inspection and inspectors. (1) The board is empowered to employ suitable person(s) as inspectors which inspectors shall not hold any service status. The inspectors shall serve without compensation.

(2) In order to effectuate the provisions of this part, the board, its authorized representative or the Shelbyville Police Department, is empowered to conduct investigations of persons engaged in the operation of any sexually-oriented business and inspect the license of the operators and establishment for compliance. Refusal of an operation or establishment to permit inspections shall be grounds for revocation, suspension or refusal to issue licenses provided by this part. (Ord. #596, April 1998)

5-905. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter,¹ no sexually-oriented business shall be operated or maintained in the City of Shelbyville without first obtaining a license to operate issued by the City of Shelbyville Sexually-Oriented Business Licensing Board.

(2) A license may be issued only for one (1) sexually-oriented business located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) sexually-oriented establishment must have a license for each. No building, premises, structure or other facility that contains any sexually-oriented establishment shall contain any other kind of sexually-oriented establishment.

(3) No license or interest in a license may be transferred to any person, partnership or corporation.

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

¹This chapter was taken from Ordinance #596 which passed final reading April 9, 1998.

(5) All existing sexually-oriented businesses at the time of the passage of this chapter¹ must submit an application for a license within one hundred twenty (120) days of the passage of this section on second and final reading. If a license is not issued within said one-hundred-twenty day period, then such existing sexually-oriented establishment shall cease operations.

(6) No license shall be issued by the board unless the applicant certifies, by proof satisfactory to the board, that the applicant has satisfied the rules, regulations and provisions of the zoning board. No sexually-oriented business may begin to operate except within the confines of a C-2 zoning district as defined under the zoning laws of the City of Shelbyville, pursuant to Ordinance No. _____.² (Ord. #596, April 1998)

5-906. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the city recorder. The application shall be filed in triplicate with and dated by the city recorder. A copy of the application shall be distributed within five (5) days by the city recorder to the Shelbyville Police Department, the board chairman, and to the applicant.

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

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least 21 years of age.
- (c) The applicant's height, weight, color of eyes and hair.
- (d) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (e) Whether the applicant previously operated in this or any other county, city or state under a sexually-oriented business license or similar business license; whether the applicant has ever had such a license revoked or suspended. The reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (f) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (g) The address of the sexually-oriented business to be operated by the applicant.

¹This chapter was taken from Ordinance #596 which passed final reading April 9, 1998.

²Ordinance #596 (April 1998), from which these provisions were taken, has a blank here.

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

(i) If the applicant is a corporation, the application shall specify the name, address, and telephone number of the corporation, the date and the state of incorporation, the name and address of the registered agent for service of process of the corporation, and the names and addresses of the officers and directors of the corporation, and the names and addresses of any persons holding fifty percent (50%) or more of the stock of the corporation; if the applicant is a partnership, the application shall specify the name and address of the partnership, the name and address of all general partners of the partnership; if the partnership is a limited partnership, the application shall specify the name and address of all general partners who have a controlling interest in the partnership.

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

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

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

(4) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the board. (Ord. #596, April 1998)

5-907. Standards for issuance of license. (1) To receive a license to operate a sexually-oriented business, an applicant must meet the following standards:

(a) If the applicant is an individual:

(i) The applicant shall be at least twenty-one (21) years of age;

(ii) The applicant shall not have had his or her license revoked within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application;

(iv) The applicant shall not have been convicted of a "specified criminal act," as defined in section 5-902, for which:

(A) Less than two (2) years have elapsed since the date conviction if the conviction is for a misdemeanor offense;

(B) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense.

(C) Less than five (5) years have elapsed since the date of conviction if the conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period.

(D) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under section 5-906(2) shall be at least twenty-one (21) years of age;

(ii) All officers directors and stockholders required to be named under section 5-906(2) shall not have had his or her license revoked within five (5) years immediately preceding the date of the application;

(iii) No officer, director, or stockholder required to be named under section 5-906(2) shall have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application;

(iv) The applicant shall not have been convicted of a "specified criminal act," as defined in section 5-902, for which:

(A) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense.

(B) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense.

(C) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period.

(D) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.

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

(3) An applicant who has been convicted of any "specified criminal activities" may not be denied a permit based on those convictions once the time period required in section 5-907 has elapsed. (Ord. #596, April 1998)

5-908. Permit required. In addition to the license requirements previously set forth for owners and operators of "sexually-oriented business," no person shall be an employee or entertainer in a sexually-oriented establishment without first obtaining a valid permit issued by the City of Shelbyville. (Ord. #596, April 1998)

5-909. Application for permit. (1) Any person desiring to secure a permit shall make application to the city recorder. The application shall be filed in triplicate with and dated by the city recorder. A copy of the application shall be distributed within five (5) days of the city recorder to the Shelbyville Police Department, board chairman, and to the applicant.

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

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least twenty-one (21) years of age.
- (c) The applicant's height, weight, color of eyes, and hair.
- (d) Whether the applicant, while previously operating in this or any other city or state under a sexually-oriented business permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (e) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (f) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
- (g) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Shelbyville Police Department, the board shall notify the applicant that his/her application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the

conclusion of such additional investigations, the board shall advise the applicant in writing whether the application is granted or denied.

(4) If an additional investigation is held, upon the expiration of the thirtieth (30) day, the applicant shall be permitted to begin operating as an employee or entertainer for which the permit is sought, unless or until, the board or its authorized representative notifies the applicant of a denial of the application and states the reason(s) for that denial.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the board. (Ord. #596, April 1998)

5-910. Standards for issuance of permit. (1) The applicant shall be at least twenty-one (21) years of age.

(2) The applicant shall not have his or her permit revoked within two (2) years immediately preceding the date of the application.

(3) The applicant shall not have been convicted of a "specified criminal act," as defined in section 5-902, for which:

(a) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense.

(b) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense.

(c) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period.

(d) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.

(4) An applicant who has been convicted of any "specified criminal activities" may not be denied a permit based on those convictions once the time period required in section 5-910(1)(c) has elapsed.

(5) No permit shall be issued until the Shelbyville Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the board not later than twenty (20) days after the date of the application. (Ord. #596, April 1998)

5-911. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for the license. If the application is denied, none of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, none of the fee shall be returned. (Ord. #596, April 1998)

5-912. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the sexually-oriented business.

(2) The permit shall be carried by an employee upon his or her person and shall be displayed upon request of a customer, any member of the Shelbyville Police Department, the board or their inspectors. (Ord. #596, April 1998)

5-913. Renewal of license or permit. (1) Every license issued pursuant to this article will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make applications to the city recorder. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the city recorder. A copy of the application for renewal shall be distributed within five (5) days by the city recorder to the Shelbyville Police Department, board chairman, and to the operator. The application for renewal shall be upon a form provided by the city recorder and shall contain such information and data, given under oath or affirmation, as may be required by the board.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. An addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, none of the fees collected shall be returned.

(3) If the Shelbyville Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the board not later than ten (10) days after the date of the application for renewal.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee is allowed to continue employment in a sexually-oriented establishment in the following calendar year. Any employee desiring to renew a permit shall make application to the city recorder. The application for renewal shall be filed in triplicate with and dated by the city recorder. A copy of the application for renewal shall be distributed within five (5) days by the city recorder to the Shelbyville Police Department, board chairman, and to the employee. The application for renewal shall be upon a form provided by the city recorder and shall contain such information and date, given under oath or affirmation, as may be required by the board.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the applicant is denied, none of the fee shall be returned.

(6) If the Shelbyville Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the board not later than ten (10) days after the date of the application for renewal.

(7) Notwithstanding anything herein to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated, and approved or denied within the same time period as those established in this article for original license applications and permit applications. In the event a license renewal application or permit renewal application is denied, the applicant shall have all rights to appeal to the city council as set forth in section 5-114 of the chapter. (Ord. #596, April 1998)

5-914. Revocation of license or permit. (1) The board shall revoke a license or permit for any of the following reasons:

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

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

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

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

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

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

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any sexually-oriented entertainment or sexually-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein sexually-oriented entertainment is permitted or to any portion of the licensed premises wherein sexually-oriented material is displayed or sold.

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

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

(k) Any operator, employee or entertainer is convicted of a "specified criminal act," as defined in section 5-902, provided that such violation occurred on the licensed premises.

(2) Notwithstanding anything herein to the contrary, before revoking or suspending any license or permit, the board shall give the license holder or permit holder not less than ten (10) nor more than twenty (20) days written notice of the charges against such license holder or permit holder and of the revocation of such license or permit, or of the period of time such license or permit is to be suspended; such notice shall also advise the license holder or permit holder of the license holder's or permit holder's right to a request a hearing before the board. In the event the license holder or permit holder does not request in writing a hearing before the board within the time set forth in such notice, the suspension or revocation shall be effective beginning the date set forth in such notice.

If the license holder or permit holder desires to request a hearing before the board to contest the suspension or revocation, such request shall be made in writing to the city recorder within ten (10) days of the license holder's or permit holder's receipt of the notification from the board. The city recorder must notify the board within three (3) days of notification of the request for a hearing. If the license holder or permit holder timely requests such a hearing, the effective date of a suspension or hearing shall be stayed pending the final outcome of judicial proceedings to determine whether such license or permit has been properly revoked or suspended under the law.

If the license holder or permit holder timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the city treasurer's receipt of such request before the board at which time the license holder or permit holder may present evidence or contrary to the provision of this chapter. The board shall hear evidence concerning the basis for such suspension or revocation at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-two (22) days after the license holder's or permit holder's receipt of the notification of the suspension or revocation, unless an extension beyond such time period is requested by the license holder or permit holder and granted by the board.

(3) If the board affirms the suspension or revocation, the office of the city attorney shall institute suit for declaratory judgment in a court of record in Bedford County, within five (5) days of the date of any such affirmation seeking an immediate judicial determination of whether such license or permit has been properly revoked or suspended under the law.

(4) Any operator whose license is revoked shall not be eligible to receive a license for five (5) years from the date of revocation. No location or

premises for which a license had been issued shall be used as an adult-oriented establishment for one (1) year from the date of revocation of the license. (Ord. #596, April 1998)

5-915. Hours of operation. (1) No sexually-oriented business shall be open between the hours of 1:00 AM and 8:00 AM on weekdays or between the hours of 3:00 AM and 12:00 noon on Sundays.

(2) All sexually-oriented businesses shall be open to inspection at all reasonable times by the Shelbyville Police Department, board members or their inspectors. (Ord. #596, April 1998)

5-916. Responsibilities of the operator. (1) The operator shall maintain a register of all employees, showing the name, and aliases used by the employee, home address, age birthdate, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of employees available immediately for inspection by police upon demand of a member of the Shelbyville Police Department, board members, or their inspectors at all reasonable times.

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

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

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

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

(7) Every sexually-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein sexual entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of sexually-oriented motion pictures or other types of sexual entertainment. Nothing in this chapter shall not apply to bathrooms unless the bathroom contains any equipment which would allow the viewing of sexually-oriented films, sexually-oriented movies, adult videos, or sexually-oriented live exhibitions.

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

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

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

"This Sexually-Oriented Business is Regulated by the City of Shelbyville Municipal Code section 5-901 et seq." Entertainers are:

- (a) Not permitted to engage in any type of sexual conduct;
- (b) Not permitted to expose their sex organs;
- (c) Not permitted to demand or collect all or any portion of a fee for entertainment before its completion;
- (d) Not permitted to appear in a state of full nudity.

(11) Sexually-oriented businesses that provide "specified services" for customers or patrons shall:

- (a) Provide patrons with written contracts and receipts that show:
 - (i) "Specified service" provided;
 - (ii) Cost of "specified service;"
 - (iii) Date and time of service provided;
 - (iv) Signature of customer or patron and signature or initials of permit holder providing the "specified service;" and
 - (v) Method of payment for service.
 - (vi) Keep copies of contracts and receipts on file for two years.

(b) Keep copies on file of all published advertisements. (Ord. #596, April 1998)

5-917. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of a sexually-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to engage in "sexual conduct or sexual activity," as defined in section 5-902, or perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

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

(4) No employee or entertainer while on the premises of the sexually-oriented establishment may mingle with any customer or spectator for any purpose.

(5) No employee or entertainer, while on the premises of a sexually-oriented establishment, may:

- (a) Engage in sexual conduct or activity;
- (b) Engage in deviant sexual conduct;
- (c) Appear in a state of nudity;
- (d) Fondle the genitals of himself or another person; or

(6) If the license holder operates an escort bureau, such bureau shall not be operated as a "sexually-oriented escort bureau" as defined in this chapter.

(7) No permit holder of an escort bureau shall conduct oneself as a "sexually-oriented escort" as defined in this chapter.

(8) No license holder shall advertise that they offer "sexual conduct" or "sexual gratification" as defined in this chapter.

(9) Prohibition of distribution of sexual devices:

(a) It is unlawful for any owner, operator, entertainer, or employee, while on the premises of the licensed sexually-oriented establishment, to distribute, for commercial purposes, sell or offer for sale any device, instrument or paraphernalia designed or marketed primarily for stimulation of human genital organs or for sado-masochistic use or abuse of themselves or others.

(b) Such devices, instruments or paraphernalia include not are not limited to: phallic shaped vibrators, dildos, muzzles, whips, chains, bather restraints, racks, non-medical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other tools of sado-masochistic abuse. (Ord. #596, April 1998)

5-918. Penalties and prosecution. (1) Any person, partnership, or corporation who is found to have violated this chapter shall be fined a definite

sum not exceeding fifty dollars (\$50.00) and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (Ord. #596, April 1998)

5-919. Invalidity of part. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provisions declared unconstitutional, and shall not affect any other section, clause or provision of this chapter. (Ord. #596, April 1998)

5-920. Denial of applications or renewals. (1) As used in this section, "application" shall mean:

- (a) An application for a license.
- (b) An application for a permit.
- (c) An application for a license renewal, and
- (d) An application for a permit renewal.

(2) Whenever an application is denied, the chairman shall notify the applicant in writing of the reasons for such action; such notice shall also advise the applicant of the applicant's right to request a hearing before the board. If the applicant desires to request a hearing before the board to contest the denial of an application, such request shall be made in writing to the city recorder within ten (10) days of the applicant's receipt of the notification of the denial of the application. The city recorder must notify the board within three (3) days of notification of the request for a hearing. If the applicant timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the city recorder's receipt of such request before the board at which time the applicant may present evidence as to why the application should not be denied. The board shall hear evidence concerning the basis for denial of the application and shall affirm or reverse the denial of an application at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-two (22) days after the applicant's receipt of notification of denial of an application, unless an extension beyond such time period is requested by the applicant and granted by the board.

(3) If the board affirms the denial of an application, the office of the city attorney shall institute suit for declaratory judgment in a court of record in Bedford County, within five (5) days of the date of any such denial seeking an immediate judicial determination of whether such application has been properly denied under the law. (Ord. #596, April 1998)

CHAPTER 10

CABLE TELEVISION--CUSTOMER SERVICE AND
CONSUMER PROTECTION STANDARDS

SECTION

5-1001. Cable television customer service and consumer protection standards.

5-1002. Definitions.

5-1003. Violation and penalty.

5-1001. Cable television customer service and consumer protection standards. Pursuant to authority granted by the Cable Television and Consumer Protection Act of 1992 at 47 U.S.C. 543, and Federal Communications Commission action under the authority of said Act authorizing the City of Shelbyville, Tennessee to enforce cable television customer service and consumer protection standards within the boundaries of the City of Shelbyville, Tennessee; the regulations contained in Title 47 of the Code of Federal Regulations, Part 76, Subpart H, section 76.309, are hereby adopted and incorporated by reference as a part of this code. Any cable television operator franchised to operate within the corporate limits of the City of Shelbyville, Tennessee shall meet all the standards contained in the regulations cited in this section. (as added by Ord. #662, April 2001)

5-1002. Definitions. Whenever the regulations cited in § 5-1001 refer to "franchising authority," it shall be deemed to be a reference to the City Council of the City of Shelbyville, Tennessee. (as added by Ord. #662, April 2001)

5-1003. Violation and penalty. Any violation of § 5-1001 shall subject the offender to a penalty up to five hundred dollars (\$500) for each offense. Each day the violation shall continue shall constitute a separate offense. (as added by Ord. #662, April 2001)

CHAPTER 11

FIRE, BURGLARY AND ROBBERY ALARMS

SECTION

- 5-1101. Definitions.
- 5-1102. Classification of alarm systems.
- 5-1103. Installations in police department communications center.
- 5-1104. Alarm system requirements.
- 5-1105. Permits required.
- 5-1106. Issuance of permit and decal.
- 5-1107. Filing requirements.
- 5-1108. Permit fees.
- 5-1109. Inspection of alarm system.
- 5-1110. Current information required.
- 5-1111. False alarm fee.
- 5-1112. False alarm fees--appeal.
- 5-1113. Timing devices.
- 5-1114. Automatic dialing devices.
- 5-1115. Alarm system standards.
- 5-1116. Duties of permit holders.
- 5-1117. Prohibited acts.
- 5-1118. Permits--denial; revocation.
- 5-1119. Business tax license.
- 5-1120. Government immunity.

5-1101. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

(1) "Alarm system" means a device or system of interconnected devices, including hardware and related appurtenances, mechanical or electrical, designed to give warning of activities indicative of felony, fire or criminal conduct requiring urgent attention to and to which the police and fire departments are expected to respond, but does not include alarms installed in conveyances.

(2) "Alarm business" means the business of any individual, partnership, corporation or other entity engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or in causing any alarm system to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed in or on any building, structure or facility.

(3) "Alarm user" means the person, firm, partnership association, corporation, company or organization of any kind in control of any building, structure or facility or portion thereof, wherein any alarm system is maintained.

(4) "Alarm permit" means a permit issued by the city allowing the operation of an alarm system within the city.

(5) "False alarm" means any activation of an alarm system upon or following which communication is made to the department that an alarm has been triggered, except alarms resulting from one of the following:

(a) Criminal activity or unauthorized entry.
(b) Acts of God which include but are not limited to the following:

(i) Earthquake causing structural damage to the protected premises;

(ii) Tornado winds causing structural damage to the protected premises;

(iii) Flooding of the protected premises due to the overflow of natural drainage;

(iv) A lightning bolt causing physical damage to the protected premises.

(c) Fire causing structural damage to the protected premises verified by the fire department;

(d) Telephone line malfunction verified in writing to the city by at least a first line telephone company supervisor within seven (7) days of the occurrence;

(e) Persons or forces not directly connected to the owner/user shall not be penalized. If police or fire units, responding to an alarm and checking the protected premises according to standard department operating procedure, do not discover any evidence of fire, unauthorized entry or criminal activity, there shall be a rebuttable presumption that the alarm is false. Entries in the police or fire departments special alarm log book shall be prima facie evidence of the facts stated therein with regard to alarms and responses.

(6) "Cancellation" means the process where response is terminated when the alarm company (designated by the alarm user) notifies the Shelbyville Police Department that there is not an existing situation at the alarm site requiring police response after an alarm dispatch request. If cancellation occurs prior to police arriving at the scene, this is not a false alarm for the purpose of a civil penalty, and no penalty will be assessed.

(7) "Communication center" means the Bedford County E-911 Communications District Center or police department communications center that provides communication service for the Shelbyville Police.

(8) "Runaway alarm" means an alarm system that produces repeated alarm signals that do not appear to be caused by separate human action. The Shelbyville Police Department may in its discretion discontinue police responses to alarm signals from what appears to be runaway alarm.

(9) "SIA Control Panel Standard CP-01" means the American National Standard Institute (ANSI) approved Security Industry Association (SIA) CP-01

Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce false alarms. Control panels built and tested to this standard by a nationally recognized testing organization, will be marked to state: "Design evaluation in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction."

(10) "Verify" means to attempt by the monitoring company, or its representative, to contact the alarm site and/or alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch, in an attempt to avoid an unnecessary alarm dispatch request. For the purpose of this chapter, telephone verification shall require, as a minimum that a second call be made to a different number if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch. (as added by Ord. #2015-954, Feb. 2015)

5-1102. Classification of alarm systems.

- | | |
|-----------|---|
| Class I | An alarm system is one which incorporates a remote annunciator installed on the premises of the department or the communication center. |
| Class II | An alarm system incorporating an automatic dialer which directly or indirectly requires a response by Shelbyville Fire or Shelbyville Police Departments. |
| Class III | An alarm system in which the annunciator located at the protected premises, and which does not incorporate an automatic dialer. (as added by Ord. #2015-954, Feb. 2015) |

5-1103. Installations in police department communications center. No burglar or fire alarms will be installed in the police department communications center for monitoring purposes. (as added by Ord. #2015-954, Feb. 2015)

5-1104. Alarm system requirements. (1) No alarm system shall be installed, used or maintained in violation of any of the requirements of this code.

(2) The alarm user shall be responsible for training and re-training all employees, family members and other persons who may make regular use of the protected premises and who may, in the normal course of their activities, be in a position to accidentally trigger a sensor.

(3) The alarm user shall, at all times, be responsible for the proper maintenance and repair of the system.

(4) Class I alarm systems must be installed by a Tennessee licensed alarm contractor. (as added by Ord. #2015-954, Feb. 2015)

5-1105. Permits required. (1) It shall be unlawful for any person to use or maintain any alarm system without a current valid permit. Each alarm permit shall be assigned a unique permit number, and the user shall provide the permit number to the alarm company to facilitate law enforcement dispatch.

(2) Prior to activation of the alarm system, the alarm company must provide instructions explaining the proper operation of the alarm system to the alarm user.

(3) The police and fire departments may refuse to respond to an alarm from a system without a permit.

(4) In the event police or firemen investigate an alarm, the permit holder or an agent shall cooperate by promptly coming to the premises upon request. Refusal shall constitute grounds for suspension or revocation of a permit.

(5) If an alarm user has one or more alarm systems protecting two (2) or more structures having different addresses, a separate permit will be required for each structure.

(6) Alarm installation companies are encouraged to use only alarm control panel(s) which meets SIA Control Panel Standard CP_01 on all new and upgraded installations. (as added by Ord. #2015-954, Feb. 2015)

5-1106. Issuance of permit and decal. (1) Upon receipt by the city recorder of the permit application and fee, the chief of police or fire chief shall undertake whatever investigation or inspection they deem necessary.

(2) If the investigation is satisfactory, a decal with the alarm user's permit number will be issued with a permit. This decal must be permanently posted on or near the front entrance to the premises so that the information on the decal is visible from outside of the structure. (as added by Ord. #2015-954, Feb. 2015)

5-1107. Filing requirements. (1) The user of every alarm system maintained in the city, shall, within ten (10) days of the installation thereof, file the following information with the city recorder:

(a) The type, make and model of each alarm device, and if the alarm system is monitored, by whom.

(b) The street address and the nearest cross street of the building that houses the alarm.

(c) For commercial premises, the name, address and telephone number of an authorized representative and an alternate who will be able to respond when called by the police department to deactivate the alarm system, if necessary, and to provide an up-to-date list at the central dispatch facility, amending the information from time to time as the authorized representative or alternate should quit or be discharged.

(d) For a private residence, the name, address and telephone number of a person who is not a resident of the private residence in question and who will be able to deactivate the alarm system.

(2) Such filing requirements are applicable to all alarm systems, whether the systems are or are not directly connected to the police department numbers or are merely audible alarms. (as added by Ord. #2015-954, Feb. 2015)

5-1108. Permit fees.

- | | | | |
|-----|-----------|---------|---|
| (1) | Class I | \$25.00 | A one-time fee to be paid when the initial application for a permit hereunder is filed with the city. |
| (2) | Class II | \$25.00 | A one-time fee to be paid when the initial application for a permit hereunder is filed with the city. Senior citizens are exempt from permit fees in noncommercial use only. Senior citizen is defined as a person who has attained the age of sixty-five (65) years. |
| (3) | Class III | \$25.00 | A one-time fee to be paid when the initial application for permit is filed. |

(as added by Ord. #2015-954, Feb. 2015)

5-1109. Inspection of alarm system. Prior to issuing an alarm system permit, and at any time thereafter, the city may inspect any alarm system for which a permit is required. Such inspection shall be for the purpose of ascertaining that information furnished by the applicant or permittee is correct, and that the system is maintained in conformation with the provisions of this chapter. (as added by Ord. #2015-954, Feb. 2015)

5-1110. Current information required. (1) Within ten (10) days following any change of circumstances which renders obsolete any of the information previously submitted, the alarm user shall file an amendment to his application, setting forth the currently accurate information. No additional fee shall be required unless the change has terminated the permit. Failure to comply with the section shall constitute grounds for revocation of the permit.

(2) When the possession of the premises at which an alarm system is maintained is transferred, the person (user) obtaining possession of the property shall file an application for an alarm permit within thirty (30) days of obtaining possession of the property. Alarm permits are not transferable. (as added by Ord. #2015-954, Feb. 2015)

5-1111. False alarm fee. (1) Whenever an alarm is activated in the city, thereby requiring an emergency response to the location by the police or fire departments, and the police or the fire department does respond, a police officer

or fireman on the scene of the activated alarm system shall inspect the area protected by the system and shall determine whether the emergency response is in fact required as indicated by the alarm system or whether in some way the alarm system malfunctions and thereby activated a false alarm.

(2) It is hereby found and determined that all false alarms constitute a public nuisance. The permit holder will be billed a fifty dollars (\$50.00) service charge per false alarm occurrence in any calendar year. Each service charge incurred shall be billed and payment shall be made within thirty (30) days from the date of receipt thereof. (as added by Ord. #2015-954, Feb. 2015)

5-1112. False alarm fees--appeal. Prior to the assessment of the charges levied in § 5-1111, the alarm user may appeal such charge to the city manager. Such appeal shall be in writing and filed within five (5) working days of notice of false alarm charge. The city manager shall have ten (10) working days to decide on any appeal and his/her decision shall be administering final. (as added by Ord. #2015-954, Feb. 2015)

5-1113. Timing devices. The user of every alarm system emitting an audible, visual or other response shall install or cause to be installed an automatic timing device, which shall deactivate such alarm so that it will be activated for no more than thirty (30) minutes. (as added by Ord. #2015-954, Feb. 2015)

5-1114. Automatic dialing devices. It shall be a violation of this chapter for any automatic dialing device to call into the police or fire department directly, either on regular business lines or on 911 emergency lines. (as added by Ord. #2015-954, Feb. 2015)

5-1115. Alarm system standards. All alarm systems operating within the city shall conform to the following standards:

(1) The installer of the alarm system may place each alarm so installed on a thirty (30) day test period to reduce the possibility of false alarms. During this test period, the alarm installer will notify the fire and police bureaus that specific alarms are being tested that will not require police or fire response should an alarm be activated. Since no fire or police response will be required during the test period, there will be no charge to the alarm user should a false alarm occur; however any false alarm that results in response by either the fire or police bureaus will implement the provisions set forth in § 5-1111(1) and (2) of this chapter.

(2) The installer of any alarm system will maintain a local service organization within the Middle Tennessee area ("Middle Tennessee area" as used herein shall mean the counties of Bedford, Giles, Lincoln, Coffee, Wilson, Moore, Marshall, Rutherford, Davidson, Williamson, and Sumner) capable of providing necessary service calls of both a maintenance and emergency nature,

within a reasonable time period after notice of equipment malfunction. (as added by Ord. #2015-954, Feb. 2015)

5-1116. Duties of permit holders. (1) Each owner, operator or lessee shall be responsible for training employees, servants or agents in the prior operation of an alarm system.

(2) The current alarm registration sticker provided each permit holder shall be displayed so as to be easily visible from outside the building. (as added by Ord. #2015-954, Feb. 2015)

5-1117. Prohibited acts. (1) It shall be unlawful to activate an alarm system for the purpose of summoning law enforcement when no burglary, robbery, or other crime dangerous to life or property is being committed or attempted on the premises, or otherwise to cause a false alarm.

(2) It shall be unlawful to install, maintain, or use an audible alarm system which can sound continually for more than ten (10) minutes.

(3) It shall be unlawful to install, maintain, or use an automatic dial protection device that reports, or causes to be reported, any recorded message to the Shelbyville Police Department. (as added by Ord. #2015-954, Feb. 2015)

5-1118. Permits--denial; revocation. (1) The chief of fire, chief of police, or chief building official may deny any application for an alarm installation permit, or revoke such permit, if the applicant or any or the applicant's owners, partners, or principal corporate officers have:

(a) Knowingly and willfully submitted any false information of a material nature in connection with the application for a license or reinstatement thereof.

(b) Been convicted in any jurisdiction of a felony or a misdemeanor which the chief of fire, chief of police, or city manager finds to be a conviction that reflects unfavorably on the fitness of the applicant to engage in the alarm business within the city. (as added by Ord. #2015-954, Feb. 2015)

5-1119. Business tax license. All security alarm businesses and installers within the city must possess a valid business tax license obtained through the tax division of the officer of the city recorder. (as added by Ord. #2015-954, Feb. 2015)

5-1120. Government immunity. Alarm registration is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm registration,

the alarm user acknowledges that the Shelbyville Police Department response may be influenced by factors such as: the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history. (as added by Ord. #2015-954, Feb. 2015)

TITLE 6

FINANCE AND TAXATION¹

CHAPTER

1. REAL PROPERTY TAXES.
2. HOTEL AND MOTEL PRIVILEGE TAX.
3. PRIVILEGE TAXES GENERALLY.
4. WHOLESALE BEER TAX.

CHAPTER 1

REAL PROPERTY TAXES

SECTION

6-101. When due and payable.

6-102. When delinquent--penalty and interest.

6-101. When due and payable. Taxes levied by the city against real property shall become due and payable annually on the date prescribed in the charter. (1979 code, § 6-101)

6-102. When delinquent--penalty and interest. Real property taxes shall become delinquent on and after the date prescribed in the charter and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the charter. (1979 code, § 6-102)

¹For related provisions, see the city's charter, particularly articles I(4), XI, XII, XIV, and XV.

See also, title 1, chapter 14 for reference to an ordinance establishing a purchasing department for the City of Shelbyville and procedures pertaining thereto.

CHAPTER 2

HOTEL AND MOTEL PRIVILEGE TAX

SECTION

- 6-201. Definitions.
- 6-202. Levy of privilege tax.
- 6-203. Collection; remittance to city; occupancy for continuous days.
- 6-204. Remittance of tax to city treasurer.
- 6-205. Monthly tax return shall be filed with city treasurer.
- 6-206. Operator shall not advertise non-collection of tax.
- 6-207. Delinquent taxes.
- 6-208. Records to be kept.
- 6-209. Powers of collector; illegal assessment and collection; tax paid under protest.
- 6-210. Proceeds.
- 6-211. Compensation of operator for remitting tax.
- 6-212. Appropriation of funds to the Shelbyville-Bedford County Chamber of Commerce.
- 6-213. Resolution to levy tax rate and to provide rules and regulations.
- 6-214. Severability.

6-201. Definitions. As used in the chapter unless the context otherwise requires:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) "Hotel" means any structure or space for trailer or recreational vehicles, or any portion of any structures, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist cabin, tourist court, motel or any place in which rooms, lodging or accommodations are furnished to transients for a consideration. All residences not used for Bed and Breakfast are excluded from this definition.

(3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel, or space for recreational vehicles.

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

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

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.

(7) "Tax Collection Official" means the Treasurer of the City of Shelbyville, Tennessee. (as added by ord. No. 454)

6-202. Levy of privilege tax. The City of Shelbyville levies a privilege tax upon the privilege of occupancy in any hotel or each transient in an amount not to exceed 10% of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided herein. (as added by ord. No. 454)

6-203. Collection; remittance to city; occupancy for thirty continuous days. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel to be given directly to or transmitted to the transient and shall be collected by such operator from the transient and remitted to the city.

When a person has maintained occupancy for thirty (30) continuous days, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the city. (as added by ord. No. 454)

6-204. Remittance of tax to city treasurer. The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the City to the City Treasurer; such tax shall be remitted to the City Treasurer not later than the twentieth (20th) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city entitled to such tax shall be that of the operator. (as added by ord. No. 454)

6-205. Monthly tax return shall be filed with city treasurer. The office of the city treasurer shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the city treasurer by the operator with such number of copies thereof as the city treasurer may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The city treasurer shall audit each operator in the

city at least once per year and shall report on audits made on a quarterly basis to the city council. (as added by ord. No. 454)

6-206. Operator shall not advertise non-collection of tax. No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added any part will be refunded. (as added by ord. No. 454)

6-207. Delinquent taxes. Taxes collected by the operator which are not remitted to the City Treasurer on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of 12% per annum, and in addition, for penalty of 1% for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). (as added by ord. No. 454)

6-208. Records to be kept. It shall be the duty of each operator liable for the collection and payment to the city of any tax imposed by this ordinance to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the city, which records the City Treasurer shall have the right to inspect at all reasonable times. (as added by ord. No. 454)

6-209. Powers of collector; illegal assessment and collection; tax paid under protest. The city treasurer or other authorized collector of the tax in administering and enforcing the provisions of this ordinance shall have as additional powers, those powers and duties with respect to collecting taxes as provided by law for the city treasurers. (as added by ord. No. 454)

6-210. Proceeds. The proceeds received by the city treasurer from the tax shall be retained by the city treasurer and deposited into a special fund in the city's name and shall be used for tourism and economic and industrial development. No monies shall be expended from such fund except as provided in this section. Any unencumbered funds and any unexpended balance of this fund remaining at the end of any fiscal year shall not revert to the general fund, but shall be carried forward until expended in accordance with the provisions herein. Interest accruing on investments and deposits of the fund shall be returned to the fund and remain a part of the fund. (as added by ord. No. 454)

6-211. Compensation of operator for remitting tax. For the purpose of compensating the operator for remitting the tax levied by this chapter, the

operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the tax collection official in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment. (as added by ord. No. 454)

6-212. Appropriation of funds to the Shelbyville-Bedford County Chamber of Commerce. The City Council of the City of Shelbyville, Tennessee, shall appropriate all funds deposited in the special fund to the Shelbyville-Bedford County Chamber of Commerce upon their request for the purposes herein provided. Said request shall be first in budget form for operational purposes. Any special request shall originate with said chamber of commerce and be received by the City Council of the City of Shelbyville as a prerequisite to appropriation of the fund.

The chamber of commerce shall submit a report annually to the city treasurer describing the manner in which the appropriated funds have been expended for tourism and economic development. The form and filing date of the report shall be as provided by the city treasurer. (as added by ord. No. 454)

6-213. Resolution to levy tax rate and to provide rules and regulations. The City Council of the City of Shelbyville, Tennessee, may adopt a resolution to provide for reasonable rules and regulations for implementation of the provisions of this chapter, including the form for reports. The City Council of the City of Shelbyville, Tennessee, may adopt a resolution levying a tax rate of ten percent (10%) or less on occupancy of hotels and motels. Said percentage of privilege tax may in this manner be adjusted, but shall in no event exceed ten percent (10%). (as added by ord. No. 454)

6-214. Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application and to that end the provisions of this chapter are disclosed to be severable. (as added by ord. No. 454)

CHAPTER 3

PRIVILEGE TAXES GENERALLY

SECTION

6-301. Tax levied.

6-302. License required.

6-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act" Tennessee Code Annotated, § 67-4-701, et seq. are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the municipality at the rates and in the manner prescribed by the said act. (1979 code, § 6-301, modified)

6-302. License required. No person shall exercise any such privilege within the municipality without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon such applicant's payment of the appropriate privilege tax. (1979 code, § 6-302)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

6-401. To be collected.

6-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6. (1979 code, § 6-401, modified)

TITLE 7

FIRE PROTECTION, FIREWORKS AND EXPLOSIVES

CHAPTER

1. MISCELLANEOUS PROVISIONS.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIREWORKS.

CHAPTER 1

MISCELLANEOUS PROVISIONS

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be and include all the territory within the following described boundary:

BEGINNING in the center line of North Brittain Street where the same intersects the center line of the right-of-way of Nashville, Chattanooga, St. Louis Railway, designated on the official Tennessee Inspection Bureau maps as "Jackson Street," and running thence with the center of North Brittain Street in a northerly direction to a point in said center line 200 feet north of the center line of Madison Street; thence in a westerly direction, parallel to and 200 feet north of the center line of Madison Street, to a point of the center line of North Main Street; running thence in a westerly direction parallel to and 200 feet north of the center line of Elm Street to a point in the center of North Spring Street where the same intersects with Elm Street, said point being 200 feet north of Elm Street and the intersection of North Spring Street; thence with the center line of North Spring Street in a southerly direction to the center line of West Franklin Street; thence in a westerly direction of Franklin Street to a point 200 feet west of the intersection of West Franklin Street and Atkinson Street; thence in a southerly direction 200 parallel to and 200 feet west of the center line of Atkinson Street to a point on the north bank of Duck River near the bridge; thence with the north bank of Duck River with its meanders to a point of said river where a perpendicular extension of Elliott Street meets said river; thence with such perpendicular extension of the center line of Elliott Street to a point in the center of South Jefferson Street; thence running in a northerly direction of the center line of South Jefferson Street to the center point of the intersection of South Jefferson Street with East McGrew Street; thence on easterly direction with a perpendicular extension of the center line of East McGrew Street to the center of spur track of the Nashville, Chattanooga, St.

Louis Railway; thence with the center line of said spur track in a northeasterly direction to a point in the center of Deery Street, where the same intersects East Depot Street; thence in a northerly direction with the center line of Deery Street to its intersection with the center line of East Jackson Street; thence in a westerly direction with the center line of East Jackson Street; to the center line of north Brittain Street and the point of beginning. (1979 code, § 7-101)

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Modifications.
- 7-207. Special requirements for construction not properly set back in certain zones.
- 7-208. Substitution of new construction materials for those prescribed.
- 7-209. Permit required for burning trash, leaves, etc.
- 7-210. Violations.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, sections 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Code, 2006 edition, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Shelbyville Code be adopted. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has been filed with the city recorder and is available for public use and inspection. The fire code, is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (as amended by Ord. #537, Dec. 1995, modified; Ord. #647, Sept. 2000; Ord. #750, Sept. 2004; and Ord. #889, Nov. 2010)

7-202. Enforcement. The fire prevention code herein adopted shall be enforced by the fire chief and members of the fire department of the city operating under his supervision and direction, and wherever reference is made in said code to the bureau of fire prevention, this reference shall be construed to refer to the fire chief and members of the fire department of the city operating under his direction and supervision. (1979 code, § 7-202)

¹Municipal code reference

Building, utility, and housing codes: title 4.

Life safety code: § 4-1201.

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of Shelbyville. (1979 code, § 7-203)

7-204. Storage of explosives, flammable liquids, etc. The limits referred to in the section of the fire prevention code, in which storage of explosives and blasting agents is prohibited, are hereby declared to be the fire limits as set out in section 7-101 of this code.

The limits referred to in the section of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, are hereby declared to be the fire limits as set out in section 7-101 of this code.

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

The limits referred to in the section of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in section 7-101 of this code. (1979 code, § 7-204)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1979 code, § 7-205)

7-206. Modifications. The chief of the fire department may recommend to the city council modifications of the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code and all state laws shall be observed, public safety secured, and substantial justice done. The particulars of such modifications or exceptions when granted or allowed shall be contained in an amendment to this code or a resolution of the city council. (1979 code, § 7-206)

7-207. Special requirements for construction not properly set back in certain zones. All proposed construction not within the fire limits but within a C-1 or I-1 zone as shown on the zoning map of the city and which is not set back a minimum of ten (10) feet from each boundary line shall be required to have a twelve (12) inch masonry fire wall, with a three (3) foot parapet above the roof. (1979 code, § 7-209)

7-208. Substitution of new construction materials for those prescribed. Any material for the purpose of construction may be used within the fire limits if such material is acceptable to the Tennessee Inspection Bureau of the State of Tennessee and is not prohibited under the building code of the City of

Shelbyville. The purpose of this section is to permit the use of similar or like material to the material prescribed for use within the fire limits which may now be on the general market or which may from time to time come on the market, with the condition that prior written acceptance of the substitute material is obtained from the Tennessee Inspection Bureau, State of Tennessee, and similar approval is obtained from the building inspector of the City of Shelbyville. (1979 code, § 7-210)

7-209. Permit required for burning trash, leaves, etc. No person shall burn or cause to be burned any trash, lumber, leaves, straw or any other combustible material within the City of Shelbyville without a permit from the city fire marshal. Such burning shall be done in screened metallic receptacles approved by the fire marshal and under such proper safeguards as he may direct. (1979 code, § 7-211)

7-210. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code hereby adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the city code shall not be held to prevent the enforced removal of prohibited conditions. (1979 code, § 7-212)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure, suspensions, and compensation of members.
- 7-306. Chief responsible for training.
- 7-307. Equipment to be used only within corporate limits.
- 7-308. Chief to be assistant to state officer.

7-301. Establishment and membership. There is hereby established a fire department as a division of the department of public safety. The fire department shall be composed of a chief and such number of physically-fit subordinate officers and firemen as the city manager shall appoint. (1979 code, § 7-301)

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

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1979 code, § 7-302)

7-303. Organization, rules, and regulations. (1) The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department.

(2) The city manager and the fire chief are hereby authorized and directed to: (a) classify by rank or grade all fire department personnel and prescribe minimum qualifications for all employees within the respective classifications so established; (b) to promulgate and recommend minimum and maximum salaries within each classification and promotion policies for

¹For related provisions see the city's charter, particularly article XVII. For special provisions with respect to traffic, see title 9, chapter 1, in this code.

employees within the minimum and maximum salary schedules suggested; (c) to promulgate rules and regulations with respect to hours of work and annual and sick leave for all such employees; and (d) to promulgate rules and regulations with respect to employment policies, discipline, and discharge of all such employees.

(3) The recommendations of the city manager in cooperation with the fire chief shall be submitted from time to time to the council for its approval, and upon approval by the council shall constitute, to the extent that such recommendations are applicable, the administrative policy of the department. (1979 code, § 7-303)

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the director of public safety and the city manager once each month, and at the end of the year a detailed annual report shall be made. (1979 code, § 7-304)

7-305. Tenure, suspensions, and compensation of members. The chief and all firemen shall serve so long as their conduct and efficiency are satisfactory to the city manager. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend temporarily any member of the fire department when he deems such action to be necessary for the good of the department. Any suspended member shall have the right to appeal to the city manager whose decision on such action shall be final. The city manager may hold such hearings as he deems necessary and may administer oaths, secure the attendance of witnesses, and order the production of such books, records, and papers as he deems necessary for a proper hearing.

All personnel of the fire department shall receive such compensation for their services as the city council may from time to time prescribe. (1979 code, § 7-305)

7-306. Chief responsible for training. The chief of the fire department shall be fully responsible for the training of the firemen, and the minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1979 code, § 7-306)

7-307. Equipment to be used only within corporate limits. No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless expressly authorized by the city council in writing. (1979 code, § 7-307)

7-308. Chief to be assistant to state officer. Pursuant to requirements of section 68-17-108 of the Tennessee Code Annotated, the chief of the fire department is designated as an assistant to the state commissioner of insurance

and banking and is subject to all the duties and obligations imposed by chapter 17 of title 68 of said Tennessee Code Annotated, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1979 code, § 7-308)

CHAPTER 4

FIREWORKS

SECTION

- 7-401. Definitions.
- 7-402. Permits and permit fees.
- 7-403. Permit revocation.
- 7-404. Permissible fireworks.
- 7-405. Storing and structures.
- 7-406. Limitations on structures.
- 7-407. Location of fireworks outlets.
- 7-408. Parking for retail fireworks sales site.
- 7-409. Additional standards for fireworks retailers.
- 7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks.
- 7-411. Limited time period to use fireworks.
- 7-412. Exemptions.
- 7-413. Violations and penalties.

7-401. Definitions. (1) As used in this chapter, unless the content otherwise requires:

(a) "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of:

- (i) All articles of fireworks classified as 1.4G, or referred to as "Consumer Fireworks," or "Class C Common Fireworks";
- (ii) Theatrical and novelty, classified as 1.4G; or
- (iii) Display fireworks, classified as 1.3G, as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, title 49, Code of Federal Regulations (CFR), parts 171-180;

(iv) Exceptions:

(A) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100(p), and packed and shipped according to those regulations;

(B) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;

(C) Propelling or expelling charges consisting of a mixture of sulfur, charcoal, saltpeter are not considered as designed to produce audible effects.

(b) "Mobile retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motorbikes.

(c) "Permit" means the written authority of the city issued under the authority of this section.

(d) "Person" means any individual, firm, partnership, or corporation.

(e) "Retailer" means any person engaged in the business of making retail sales of fireworks to the general public.

(f) "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, co-partnership, or one (1) or more individual(s).

(g) "State fire marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of Tennessee Code Annotated, § 68-104-101, et seq.

(2) Singular words and plural words used in the singular include the plural and the plural as singular. (as added by Ord. #879, Nov. 2009)

7-402. Permits and permit fees. (1) It is unlawful for any person to sell or to offer for sale in the City of Shelbyville any item of fireworks without first having secured a state fire marshal permit and a permit issued by the City of Shelbyville.

(a) Permits are not transferable.

(b) A permit (to sell fireworks to the general public) is valid only from June 20 through July 9 or December 21 through January 5.

(c) The permit fee for retail permits is one thousand dollars (\$1,000.00) for the summer period and five hundred dollars (\$500.00) for the winter period.

(d) The fee for public displays using special display (1.3G) fireworks is five dollars (\$5.00).

(e) Schools, wedding groups, businesses, and civic clubs that desire to have a 1.3G Special Display or 1.4G Consumer Fireworks display may obtain a permit to use fireworks for any time of the year by paying a five dollar (\$5.00) permit fee and obtaining a permit from the city.

(2) A permit to sell fireworks in the City of Shelbyville must be obtained at least one (1) week prior to the date on which the applicant begins making sales. Each application shall contain the following:

(a) The application must include the name, address, and telephone number of applicant.

(b) The applicant must be the natural person who will operate or be responsible for sales.

(c) The applicant's name must be the same as the name on the state fire marshal permit.

(d) The applicant is liable for all violations of this chapter by persons under his/her supervision.

(3) A copy of the state fire marshal permit. (For a state permit to be obtained by a retailer, the mayor must sign in behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location.)

(4) A person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

(5) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of other structures in the area that are occupied, location and number of parking places, location of any nearby residences, location of the nearest fuel outlets, and location of other fireworks outlets if located within seven hundred fifty feet (750') of a retail structure.

(6) Mobile vendors are not permitted.

(7) Flashing signs are not permitted.

(8) One (1) double-faced sign is permitted; however, each sign face may not exceed thirty-six (36) square feet.

(9) The application must contain evidence that general liability insurance has been obtained by applicant naming the City of Shelbyville as additional insured for at least two million dollars (\$2,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.

(10) The application must disclose the location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.

(11) Applicant shall pay a one hundred dollar (\$100.00) cleanup deposit per location, which shall be refunded after the fireworks season or used by the city to clean up the retail fireworks site if needed.

(12) After the application has been submitted and approved, a city codes inspector shall inspect the site for compliance with applicable codes and ordinances. (as added by Ord. #879, Nov. 2009)

7-403. Permit revocation. (1) The codes director or fire official may revoke any permit upon failure of retailer to correct any of the following conditions within thirty-six (36) hours after the codes director gives written notice:

(a) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the city codes director.

(b) When the permittee's application contains any false or untrue statements.

(c) When the permittee fails to timely file any report or pay any tax, fee, fine, or charge.

(d) When the permittee or the permittee's operator violates any fireworks ordinance or statute.

(2) When any activities of the permittee constitute a distinct hazard to life or property, the codes director or fire official, or both, may revoke the permit immediately. (as added by Ord. #879, Nov. 2009)

7-404. Permissible fireworks. (1) It is unlawful for any individual, firm, partnership, or corporation to sell or use within the City of Shelbyville, except as provided in this chapter, any "fireworks" as defined in § 7-401(1)(a), other than the following:

(a) Those items classified by the U.S. Department of Transportation as 1.4G Consumer Fireworks; or

(b) Those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations.

(2) Any display using 1.3G Display Fireworks must be under the control of a licensed pyrotechnics technician. (as added by Ord. #879, Nov. 2009)

7-405. Storing and structures. No person may smoke within a structure where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words "Fireworks - No Smoking" in letters not less than four inches (4") high. An inspected and currently tagged fire extinguisher with a minimum 2A rating and one (1) pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding structure. Fireworks must be stored at least ten feet (10') away from windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for personal use. (as added by Ord. #879, Nov. 2009)

7-406. Limitations on structures. Tents meeting the current adopted International Building Code and the Life Safety Code (NFPA 101) may be used for the retail sale of fireworks. Ground fault interrupter protection must be used for power cords that supply power to tents and other outdoor structures. Electrical wiring inside tents and other outdoor locations shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. No structure from which fireworks are sold may exceed three thousand two hundred (3,200) square feet. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and

is constructed of non-flammable materials such as metal or concrete block. (as added by Ord. #879, Nov. 2009)

7-407. Location of fireworks outlets. Fireworks sales structures must be no closer than sixty feet (60') from any occupied building. Fireworks sales are permissible only on commercial/industrial property as approved by the planning department and the sales structure must be located a minimum of forty-five feet (45') from the right-of-way. Any fireworks sales structure must be at least one hundred fifty feet (150') from a residence. Fireworks sales are not allowed on any property where there is an existing retail business that is operated from a building in excess of one hundred twenty-five thousand (125,000) square feet. (as added by Ord. #879, Nov. 2009)

7-408. Parking for retail fireworks sales site. The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved parking places for off street and right-of-way customer parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary. (as added by Ord. #879, Nov. 2009)

7-409. Additional standards for fireworks retailers. (1) Any site for a fireworks retailer must be located so that all parts of the structure and fireworks inventory on the site are no closer than one hundred feet (100') to any fuel source.

(2) The parcel in which a fireworks retail use is required shall be a minimum of seven hundred fifty feet (750') from other similar uses. This distance shall be measured in a straight line from structure to structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location.

(3) Each retailer must provide for each site toilet facilities for the retailer's employees.

(4) Each retailer must conspicuously post a sign notifying the public of the requirements of §§ 7-410, 7-411, and 7-413 of this chapter. Such signs shall not exceed six (6) square feet in size and shall not contain advertising.

(5) Each retailer shall provide adequate generators, which shall be placed no closer than ten feet (10') from any tent or structure, and protected from rain. (as added by Ord. #879, Nov. 2009)

7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks. It is unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated person. It is unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred feet (200') of where

fireworks are stored, sold, or offered for sale. It is unlawful to ignite or discharge any permissible articles of fireworks within or throw them from a motor vehicle. It is unlawful to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of persons. It is unlawful to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. It is unlawful to launch fireworks onto property of persons who have not given permission. It is unlawful to use fireworks at times, places, or in any manner that endangers other persons. It is unlawful to ignite fireworks during a burning ban declared by either the State of Tennessee or the City of Shelbyville Fire Department, except for public (and/or group) displays for which permits have been granted. (as added by Ord. #879, Nov. 2009)

7-411. Limited time period to use fireworks. It is unlawful to discharge or use fireworks except for the following time periods.

(1) July 1 through July 4. The permissible hours are from 10:00 A.M. to 10:30 P.M., except for July 3, when permissible hours are from 10:00 A.M. to 11:30 P.M.

(2) December 31 and January 1. The permissible hours from 8:00 P.M. on December 31 to 1:00 A.M. on January 1. (as added by Ord. #879, Nov. 2009)

7-412. Exclusions. Nothing in this chapter prohibits:

(1) The sale of any kind of fireworks that are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

(2) The sale, transportation, handling, or use of industrial pyrotechnic devices or fireworks, such as railroad torpedoes, fuses, automotive, aeronautical, and marine flares and smoke signals.

(3) The sale or use of blank cartridges for theater, for signal or ceremonial purposes, in athletics or sporting events, or legal power tools.

(4) The transportation, handling, or use of any pyrotechnic devices by the armed forces of the United States.

(5) The use of pyrotechnics in training by the fire service, law enforcement, or similar government agencies.

(6) The use of fireworks for agricultural purposes under conditions approved by the fire chief or his designee.

(7) Supervised displays of fireworks as provided for in this chapter. (as added by Ord. #879, Nov. 2009)

7-413. Violations and penalties. Violations of any provision of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00) per violation. (as added by Ord. #879, Nov. 2009)

TITLE 8

HEALTH AND SANITATION¹

CHAPTER

1. MISCELLANEOUS.
2. LITTER CONTROL.
3. WASTEWATER COLLECTION AND TREATMENT.
4. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.
5. NUISANCES.
6. PRIVATE COLLECTORS OF SOLID WASTE.
7. SOLID WASTE TRANSFER STATION.
8. STORMWATER DRAINAGE.
9. SLUM CLEARANCE.
10. SEWER USE ORDINANCE.
11. MUNICIPAL SEPARATE STORM SEWER SYSTEM.

CHAPTER 1

MISCELLANEOUS

SECTION

- 8-101. Health officer.
8-102. Adulterated food, drugs and cosmetics.
8-103. Stagnant water.
8-104. Litter and vegetation accumulation on premises.
8-105. Dead animals.

8-101. Health officer. The "health officer" shall be such city, county, or state officer as the city manager shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1979 code, § 8-101)

8-102. Adulterated food, drugs and cosmetics. It shall be unlawful and a violation of this section for any person to violate within the City of Shelbyville any provisions of the state food, drug, and cosmetic laws. (1979 code, § 8-102)

¹For other health and sanitation regulations elsewhere in this code see the related headings. For example, for those relating to animals and fowls, see title 3. For specific health and sanitation regulations relating to mobile home parks see title 5, chapter 7.

8-103. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property without treating it so as to prevent the breeding of mosquitoes. (1979 code, § 8-104)

8-104. Litter and vegetation accumulation on premises. (1) Unlawful to allow litter or vegetation to accumulate. It shall be unlawful for any person to allow litter to accumulate on property under his or her control or ownership within the city limits of the City of Shelbyville or to permit weeds or other vegetation to grow to a height in excess of eight (8) inches. This does not include growing gardens or property maintained landscaping or property used for permitted agricultural purposes. For purposes of this section, litter is any quantity of uncontainerized paper, metal, plastic, glass, furniture, other than outdoor/yard furniture, appliances, or miscellaneous solid waste which may be classified as trash, debris, rubbish, refuse, garbage or junk. Litter includes cut vegetation, brush, trees or portions of thereof, and wood waste.

(2) Notice to clean up premises. Whenever a person violates the provisions of subsection (1), the city manager or his designated representative shall have notice mailed by first class mail to the last known address of the person having control over the offending premises, as well as the title owner of the property, as shown by the current year's tax assessment, which notice shall include notice of the following:

- (a) The nature of the violation;
- (b) That failure to abate the violation within five (5) calendar days will result in the person having control of the property and the owner of the property being issued an ordinance summons to appear in city court;
- (c) That if found to be in violation of the ordinance, court costs plus a fine for each day the violation is found to have been committed, continued, or permitted may be imposed;
- (d) That upon failure to abate the violation within five (5) calendar days, upon the direction of the city manager, the City of Shelbyville may enter on the property and take all necessary action to abate the violation, and that costs of any abatement work, including personnel, equipment and disposal charges will be charged to the property owner, and that such charges will accrue interest at the rate of one percent (1%) per month until paid, and that outstanding charges will be lien against the property until paid.

(3) Failure to comply with notice. Upon failure to abate the violation within five (5) days after notice as set out in subsection (2), the owner and occupant shall be issued an ordinance summons for each separate type or non-continuous violation. Each and every day or portion thereof during which any violation, of the chapter is committed, continued or permitted, shall be considered a separate violation. Any person found by the court to be or have

been in violation of § 8-104 shall be punishable by a fine as established by local applicable laws. Upon failure to abate the violation within five (5) days after notice as set out in subsection (2) above, the public works department upon notice from the city manager is hereby authorized and directed to enter upon said premises and shall remove any accumulation of litter, and shall cut and clear all weeds and other vegetation. The person owning such premises will be charged the actual cost of such removal, plus a charge of one percent (1%) per month interest.

(4) Billing for work performed. After completion of any work performed under this section or any other section regarding the removal of litter by the city, the director of the public works department shall provide the city treasurer an itemization of the costs of such work, including without limitation the costs of personnel, equipment usage and rental, and disposal. The treasurer will bill the owner of said property, by regular mail, at the last known address of said owner as shown on the tax assessor's records, for the amount of the cost incurred by the city for such removal of litter and clearing of the property. If the bill is not paid fully within thirty (30) days of the date of the bill, the city treasurer may certify, or turn over to the city attorney for collection, all unpaid or uncollected bills, and said city attorney shall have the right to file suit or take such other steps as may be necessary for collection. Until all such charges are paid, including any attorney's fees for cost of collection, such property shall be subject to a lien in favor of the City of Shelbyville. Such lien shall be superior to all other liens except tax liens.

(5) Collection of costs and attorney's fees. All uncollected bills for work performed under these provisions removal of litter and clearing of the property, as provided herein, for each year, and all costs, will be deemed a special tax to be collected as other general taxes are collected by the City of Shelbyville. When placed in the hands of the city attorney for collection, twenty-five percent (25%) of the unpaid charges for such costs shall be added to the principal and interest for said attorney's services in making such collections and retained by him. In addition thereto, there shall be added to the costs of collection the filing of all liens in the register's office for Bedford County, Tennessee, as well as all costs necessary to prosecute said claim for services. (1979 Code, § 8-105, as replaced by Ord. #403; Ord. #521, March 1995; and Ord. #739, June 2004, and amended by Ord. #836, Dec. 2007)

8-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1979 code, § 8-106)

CHAPTER 2

LITTER CONTROL

SECTION

8-201. Definitions.

8-202. Regulations for pedestrians and motorists.

8-203. Regulations for vehicles transporting loose materials.

8-204. Regulations for loading and unloading operations.

8-205. Regulations for construction/demolition projects.

8-206. Regulations for household solid waste containerization and removal.

8-207. Regulations for commercial solid waste containerization and removal.

8-208. Provision for solid waste disposal and storage facilities at new buildings.

8-209. Keeping property clean.

8-210. Enforcement authorizations.

8-211. Violations.

8-201. Definitions. For purposes of this chapter:

(1) "Litter" is any quantity of uncontainerized paper, metal, plastic, glass, furniture, (other than outdoor/yard furniture) appliances, miscellaneous solid waste which may be classed as trash, debris, rubbish, refuse, garbage, or junk.

(2) "Public property" includes, but is not limited to, the following exterior locations: streets, street medians, roads, road medians, catch basins, sidewalks, strips between streets and sidewalks, lanes, alleys, public rights-of-way, public parking lots, school grounds, municipal housing project grounds, municipal vacant lots, parks, beaches, playgrounds, other publicly-owned recreation facilities, and municipal waterways and bodies of water.

(3) "Private property" includes, but is not limited to, the following exterior locations owned by private individuals, firms, corporations, institutions or organizations: yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots, and recreation facilities.

(4) "Containers" are locally-approved metal, heavy-duty paper, or plastic receptacles used for the disposal and storage of solid waste. (1979 code, § 8-201, as amended by Ord. #623, July 1999)

8-202. Regulations for pedestrians and motorists. (1) It shall be unlawful for any person to throw, discard, place, or deposit litter in any manner or amount on any public or private property within the corporate limits of the city, except in containers or areas lawfully provided therefor.

(2) In the prosecution charging a violation of subsection (1) from a motor vehicle, proof that the particular vehicle described in the complaint was

the origin of the litter, together with proof that the defendant named in the complaint was at the time of such violation the registered owner of said vehicle, shall constitute in evidence a presumption that the registered owner was the person who committed the violation.

(3) It shall be the duty of every person distributing commercial leaflets, flyers, or any other advertising and information material to take whatever measures that may be necessary to keep such materials from littering public or private property.

(4) To facilitate proper disposal of litter by pedestrians and motorists, such publicly-patronized or used establishments and institutions as may be designated by the municipal department in charge of solid waste management shall provide, regularly empty, and maintain in good condition adequate containers that meet standards prescribed by the department. This requirement shall be applicable, but not limited to, fast-food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, mobile canteens, motels, hospitals, schools, and colleges. (1979 code, § 8-202)

8-203. Regulations for vehicles transporting loose materials. (1) It shall be unlawful for any person, firm, corporation, institution, or organization to transport any loose cargo or material by truck or other motor vehicle within the corporate limits of the city unless said cargo or material is covered and secured or contained in such manner as to prevent depositing or spillage of litter or the cargo or material transported on public and private property.

(2) The duty and responsibility imposed by subsection (1) shall be applicable alike to the owner of the truck or other vehicle, the operator thereof, and the person, firm, corporation, installation, or organization from whose residence or establishment the cargo originated.

(3) In the prosecution charging a violation of subsection (1), lack of adequate covering and securing shall in itself constitute proof a violation has been committed. (1979 code, § 8-203, as amended by Ord. #837, Dec. 2007)

8-204. Regulations for loading and unloading operations. (1) Any owner or occupant of an establishment or institution at which litter is attendant to the packing and unpacking and loading and unloading of materials at exterior locations shall provide suitable containers there for the disposal and storage of such litter and shall make appropriate arrangements for the collection thereof.

(2) Further, it shall be the duty of the owner or occupant to remove at the end of each working day any litter that has not been containerized at these locations. (1979 code, § 8-204)

8-205. Regulations for construction/demolition projects. (1) It shall be unlawful for the owner, agent, or contractor in charge of any construction or demolition site to cause, maintain, permit, or allow to be caused, maintained or

permitted the accumulation of any litter on the site before, during, or after completion of the construction or demolition project.

(2) It shall be the duty of the owner, agent, or contractor to have on the site adequate containers for the disposal of litter and to make appropriate arrangements for the collection thereof or for transport by himself to an authorized facility for final disposition.

(3) The owner, agent or contractor may be required at any time to show proof of appropriate collection, or if transported by himself, of final disposition at an authorized facility. (1979 code, § 8-205)

8-206. Regulations for household solid waste containerization and removal. (1) All residences located in any area in which collection is by the city or approved contractors shall have sufficient container capacity to accommodate their normal volume of solid waste between collections. The type, size, and number of containers, shall be as prescribed by the department in charge of solid waste management.

(2) All items too large to fit into containers, such as, but not limited to, appliances, furniture, and mattresses, shall be disposed of only in accordance with the policy prescribed by the department in charge of solid waste management.

(3) All loose materials which normally fit into containers but which are excess as a result of special circumstances such as holidays shall be bundled and tied securely to prevent them from blowing or scattering and shall be placed beside the containers.

(4) Containers shall be kept covered at all times.

(5) Any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person collecting the contents thereof or the public generally shall be replaced promptly by the owner or user of the container upon receipt of written notice of such defects from the department in charge of solid waste management. Failure to do so within five (5) days of such notification shall constitute a violation of this section.

(6) In placing containers for collection and removing them after collection, all residents shall follow the practices relative to locations, days, hours, etc. as prescribed by the department in charge of solid waste management.

(7) It shall be unlawful for any resident to deposit household solid waste in any receptacle maintained on a sidewalk or any other location for disposal of litter by pedestrians.

(8) The city council may by resolution establish fees for the collection of solid waste. (1979 Code, § 8-206, as amended by Ord. #739, June 2004)

8-207. Regulations for commercial solid waste containerization and removal. (1) All establishments and institutions which generate solid waste for collection by the city or approved contractors shall abide by the container

requirements relative to types, sizes, numbers, locations, safety precautions, accessibility and collection frequency as prescribed by the department in charge of solid waste management.

(2) Containers shall be kept covered at all times.

(3) Any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person recollecting the contents thereof or the public generally shall be replaced promptly by the owner or user of the container upon receipt of written notice of such defects from the department in charge of solid waste management. Failure to do so within five (5) days of such notification shall constitute a violation of this section.

(4) It shall be unlawful for any owner, manager, or employee of a commercial establishment or institution to deposit solid waste from that establishment or institution in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians. (1979 code, § 8-207)

8-208. Provision for solid waste disposal and storage facilities at new buildings. (1) Before building permits shall be issued for construction of commercial buildings and multiple-dwelling units, plans for the adequacy, location, and accessibility of solid waste containerization and storage facilities must be approved by the department in charge of solid waste management.

(2) No certificate of occupancy shall be issued for said premises until the department's approval of these facilities has been obtained. (1979 code, § 8-208)

8-209. Keeping property clean. (1) It shall be the duty of the owner, agent, occupant, or lessee to keep exterior private property free of litter. This requirement applies not only to removal of loose litter, but to materials that already are, or become, trapped at such locations as fence and wall bases, grassy and planted areas, borders, embankments, and other lodging points.

(2) Owners, agents, occupants or lessees whose properties face on municipal sidewalks and strips between streets and sidewalks shall be responsible for keeping those sidewalks and strips free of litter.

(3) It shall be unlawful to sweep or push litter from sidewalks and strips into streets. Sidewalk and strip sweepings must be picked up and put into household or commercial solid waste containers.

(4) It shall be unlawful to place or store furniture (other than outdoor/yard furniture) on front porches or in front yards of dwellings in the city.

(5) It shall be the duty of every nonresident owner of a vacant lot or other vacant property to appoint a resident agent who shall have responsibility for keeping that lot or other property free of litter.

(6) If after due warning, citation or summons, an owner, agent, occupant or lessee fails to remove litter from any private or public property, the director of the public works department is authorized to serve written notice to

the owner or his appointed agent that if the condition is not corrected within five (5) days, the property will be cleaned by the city and the owner or his appointed agent billed for the cost thereof. The billing for such work and the procedures for the collection thereof shall be the same as provided for in § 8-104 of this code for the billing and collection of costs of litter removal. In the event the litter requiring removal is on the public roads or highways and the public works director shall provide actual notice to the responsible company, and if the company fails to take reasonably immediate action under the circumstances to remove the litter, the city will remove the litter and bill the responsible company for the costs of such removal. (1979 Code, § 8-209, as amended by Ord. #623, July 1999; Ord. #739, June 2004, and Ord. #838, Dec. 2007)

8-210. Enforcement authorizations. (1) Designated personnel in the following two departments are authorized to enforce sections of this chapter as prescribed below.

(a) Police department. Regular officers are empowered to enforce any regulation of which violations may be observed in the normal course of patrol duty. Members of units assigned to special parking details in downtown or other commercial areas (patrolmen, meter maids) have authority to enforce, in their normal course of duty, violations of the following sections:

8-202(1)	Littering by pedestrians and motorists.
8-202(3)	Littering with handbills, leaflets, etc.
8-203(1)	Transporting loose materials without adequate covering
8-204(1)	Lack of containers at loading/unloading operations
8-204(2)	Failure to clean loading/unloading areas
8-207(1)	Improper commercial solid waste containerization
8-207(4)	Depositing commercial solid waste in sidewalk or other pedestrian litter receptacles
8-209(1)	Litter on private premises
8-209(2)	Litter on sidewalks and strips
8-209(3)	Sweepouts
8-209(4)	Storage of furniture (other than outdoor/yard) on front porches or in front yards

(b) Agency in charge of solid waste management. Since this department is the one most directly concerned with litter control, its director is authorized to delegate enforcement authority to such officers and/or inspectors within the department as he deems appropriate. Such authority is applicable to the entire chapter.

(2) In pursuance of their normal work, inspectors in the following departments and agencies are authorized to enforce the following sections:

(a) Building and zoning department.

- Section 8-205 - Litter control at construction/demolition projects and appropriate collection/disposal.
- Section 8-208 - Approval of solid waste disposal and storage facilities at new buildings.
- Section 8-209(4) - Storage of furniture (other than outdoor/yard) on front porches or in front yards

(b) Fire department.

- Section 8-206 - Wherever violations of household solid waste containerization regulations constitute existing or potential fire hazards.
- Section 8-207 - Wherever a similar situation prevails with regard to commercial solid waste containerization regulations.
- Section 8-209 - Wherever violations of clean-property regulations constitute existing or potential fire hazards.

(c) Health department.

- Section 8-206 - Wherever violations of household solid waste containerization regulations constitute existing or potential health hazards.
- Section 8-207 - Wherever a similar situation prevails with regard to commercial solid waste containerization regulations.
- Section 8-209 - Wherever violations of clean-property regulations constitute existing or potential health hazards.

(d) Housing authority.

- Section 8-206 - Where there are violations of household solid waste containerization regulations at city owned housing projects.
- Section 8-209 - Where there are violations of clean property regulations at the above projects.

(e) Public works department.

- Section 8-206 - Where there are violations of household solid waste containerization regulations at multiple-dwelling units normally inspected by the department.

- Section 8-209 - Where there are violations of clean property regulations at the above units.
- Section 8-209(4) - Storage of furniture (other than outdoor/yard) on front porches or in front yards.

(3) Further, along with their regular duties, patrol personnel of the parks and recreation department are authorized to enforce the following sections at parks, beaches, and other recreation facilities over which the department has jurisdiction:

- Section 8-202(1) - littering by pedestrians
- Section 8-202(3) - littering with handbills, leaflets, etc. (1979 code, § 8-210, as amended by Ord. #623, July 1999)

8-211. Violations. Any person violating any provision of this chapter shall be subject to a monetary penalty up to five hundred dollars (\$500). (1979 code, § 8-211, as replaced by Ord. #545, May 1996)

CHAPTER 3

WASTEWATER COLLECTION AND TREATMENT¹

SECTION

- 8-301. Title.
- 8-302. Purpose and policy.
- 8-303. Definitions.
- 8-304. Abbreviations.
- 8-305. General discharge prohibitions.
- 8-306. Federal categorical pretreatment standards.
- 8-307. Modification of federal categorical pretreatment standards.
- 8-308. Specific pollutant limitations.
- 8-309. State requirements.
- 8-310. City's right of revision.
- 8-311. Excessive discharge.
- 8-312. Accidental discharges.
- 8-313. Purpose of fees.
- 8-314. Charges and fees.
- 8-315. Wastewater discharges.
- 8-316. Wastewater contribution permits.
- 8-317. Reporting requirements for permittee.
- 8-318. Monitoring facilities.
- 8-319. Inspection and sampling.
- 8-320. Pretreatment.
- 8-321. Confidential information.
- 8-322. Harmful contributions.
- 8-323. Revocation of permit.
- 8-324. Notification of violation.
- 8-325. Show cause hearing.
- 8-326. Legal action.
- 8-327. Civil penalties.
- 8-328. Falsifying information.
- 8-329. Use of public sewers required.
- 8-330. Private sewerage disposal.
- 8-331. Building sewers and connections.
- 8-332. Severability.
- 8-333. Conflict.

¹See title 4 in this code for plumbing regulations and title 13 for other provisions relating to the administration and operation of the sewer system.

8-301. Title. Title 8, chapter 3, of the Shelbyville Municipal Code, entitled "Wastewater Collection and Treatment" ... shall read as follows. (as replaced by ord. No. 350)

8-302. Purpose and policy. This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Shelbyville, Tennessee, and enables the city to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the municipality wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system.

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system, and

(4) To provide for equitable distribution of the cost of the municipal wastewater system.

This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This chapter shall apply to the City of Shelbyville and to persons outside the City who are, by contract or agreement with the Shelbyville Sewerage System, Users of the Shelbyville Sewer System. Except as otherwise provided herein, the General Manager of the Shelbyville Sewerage System shall administer, implement, and enforce the provisions of this chapter. (as replaced by ord. No. 350)

8-303. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act" or "the Act": The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 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, 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 User to the POTW.

(6) "Categorical standards": National Categorical Pretreatment Standards or Pretreatment Standard.

(7) "City": The City of Shelbyville or the City Council of City Shelbyville.

(8) "Cooling water": The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(9) "Control authority": The term "control authority" shall refer to the "approval authority," defined hereinabove, or the superintendent if the City has an approved pretreatment program under the provisions of 40 CFR, 403.11.

(10) "Direct discharge": The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(11) "Environmental Protection Agency, or EPA": The U. S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

(12) "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.

(13) "Holding tank waste": Any waste from holding tanks such as vessels chemical-toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(14) "Indirect discharge": The discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(15) "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).

(16) "Interference": The inhibition or disruption of the POTW treatment 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 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 POTW.

(17) "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.

(18) "National prohibitive discharge standard or prohibitive discharge standard": Any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

(19) "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.

(20) "National Pollution Discharge Elimination System or NPDES Permit": A permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).

(21) "Person": Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(22) "pH": The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(23) "Pollution": The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(24) "Pollutant": Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(25) "Pretreatment or treatment": The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR Section 403.6(d).

(26) "Pretreatment requirements": Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

(27) "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 Shelbyville Sewerage System. 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 the Shelbyville Sewerage System, users of the POTW.

(28) "POTW treatment plant": That portion of the POTW designed to provide treatment to wastewater.

(29) "Shall" is mandatory; "May" is permissive.

(30) "Significant industrial user": Any Industrial User of the Shelbyville Sewerage System's wastewater disposal system who (i) has a discharge flow of 25,000 gallons or more per average work day, or (ii) has a flow greater than 5% of the flow in the Shelbyville Sewerage System's wastewater treatment system, or (iii) has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act or Tennessee Statutes and rules or (iv) is found by the Shelbyville Sewerage System, Tennessee Department of Environment and Conservation or the U. S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(31) "State": State of Tennessee.

(32) "Standard Industrial Classification (SIC)": A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(33) "Storm water": Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(34) "Suspended solids": The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering.

(35) "General manager": The persons designated by the Shelbyville Sewerage System to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this section, or his duly authorized representative.

(36) "Toxic pollutant": Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(37) "User": Any person who contributes, causes or permits the contribution of wastewater into the Shelbyville Sewerage System's POTW.

(38) "Wastewater": The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(39) "Waters of the state": All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

(40) "Wastewater contribution permit": As set forth in section 8-315.

(41) "Shelbyville sewerage system": That entity created by Chapter 421 of the Private Acts of 1953 of the State of Tennessee which is empowered to and authorized to own and operate the sewerage system, including the POTW therefor, for and in behalf of the City of Shelbyville, Tennessee. (as replaced by ord. No. 350)

8-304. Abbreviations. The following abbreviations shall have the designated meanings:

BOD	-	Biochemical Oxygen Demand.
CFR	-	Code of Federal Regulations.
COD	-	Chemical Oxygen Demand.
EPA	-	Environmental Protection Agency.
l	-	Liter.
mg	-	Milligrams
mg/l	-	Milligrams per Liter.
NPDES	-	National Pollutant Discharge Elimination System.
POTW	-	Publicly Owned Treatment Works.
SIC	-	Standard Industrial Classification.
SWDA	-	Solid Waster Disposal Act, 42 U.S.C., 6901, et seq.
USC	-	United States Code.
TSS	-	Total Suspended Solids. (as replaced by ord. No. 350)

8-305. General discharge prohibitions. No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such Users of a POTW whether or not the User is subject to National Categorical Pretreatment Standards or any other National State, or local Pretreatment Standards or Requirements. A User may not contribute the following substances to any POTW:

(1) 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 per cent (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, bromates, carbides, hydrides and sulfides and any other substances which the city, state or EPA has notified the User is a fire hazard or a hazard to the system.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch ($\frac{1}{2}$ ") in any dimension, animal guts or tissues, 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, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0, unless the POTW is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Any wastewater containing toxic pollutants in sufficient quantity either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(6) 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 disposal criteria, guidelines or regulations developed under Section 405 of the Act, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act or State criteria applicable to the sludge management method being used.

(7) Any substance which will cause the POTW to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards.

(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40°C (104°F) unless the POTW treatment plant is designed to accommodate such temperature.

(10) 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. In no case shall a slug load have a flow rate or contain concentration of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the General Manager in compliance with applicable State or Federal regulations.

(12) Any wastewater which causes a hazard to human life or creates a nuisance.

When the General Manager determines that a User or Users are contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the General Manager shall: (1) Advise the User(s) of the impact of the contribution of the POTW; and (2) Develop effluent limitation(s) for such user to correct interference with the POTW. (as replaced by ord. No. 350)

8-306. Federal categorical pretreatment standards. Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standard, if more stringent than limitation imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. the General Manager shall notify all affected Users of the applicable reporting requirements under 40 CFR, Section 403.12. (as replaced by ord. No. 350)

8-307. Modification of federal categorical pretreatment standards. Where the Shelbyville Sewerage System wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the Shelbyville Sewerage System may apply to the Approval Authority for modification of specific limits in the Federal Pretreatment Standards. "Consistent Removal" shall mean the reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system 95 percent of the samples taken when measured according to the procedures set

forth in Section 403.7(c)(2) of (Title 40 of the Code of Federal Regulations, Part 403) - "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The Shelbyville Sewerage System may then modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the Approval Authority is obtained. (as replaced by ord. No. 350)

8-308. Specific pollutant limitations. (1) Wastewater discharge limitations. No person shall discharge wastewater containing an excess of:

- 2.0 mg/l arsenic
- 2.0 mg/l cadmium
- 10.0 mg/l copper
- 4.0 mg/l cyanide
- 3.0 mg/l lead
- 0.2 mg/l mercury
- 10.0 mg/l nickel
- 2.0 mg/l silver
- 10.0 mg/l total chromium
- 10.0 mg/l zinc

(2) Criteria to protect the treatment plant influent. The city shall monitor the treatment works influent for each parameter in the following table. The Industrial Users shall be subject to the reporting and monitoring requirements set forth in section 8-317 reporting requirements for permittee, and section 8-319 inspection and sampling, as to these parameters. In the event that the influent at the treatment works reaches or exceeds the levels established by said table, the general manager shall initiate technical studies to determine the cause of the influent violation, and shall recommend to the board such remedial measures as are necessary, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameter. The general manager shall also recommend changes to any of these criteria in the event the POTW effluent standards are changed or in the event that there are changes in any applicable law or regulation affecting same or in the event changes are needed for more effective operation of the POTW.

TABLE A1: Industrial Wastewater Specific Pollutant Limitations (2015)

Appendix A: Pollutant Parameters (Subject to change by addenda applicable to "Pass Through Limitations" issued by the state. The year for each revision will be indicated in the top left hand corner of Appendix A.)

Pollutant	Daily Average* Maximum Concentration (mg/L)	Instantaneous Maximum Concentration (mg/L)
1,1,1-Trichloroethane	3.70	7.40
1,2 Transdichloroethylene	0.07	0.14
Benzene	0.26	0.52
Cadmium	0.14	0.28
Carbon Tetrachloride	2.70	5.40
Chloroform	4.50	9.00
Copper	6.00	12.00
Chromium III	5.00	10.00
Chromium VI	5.00	10.00
Cyanide	2.40	4.80
Ethylbenzene	0.50	1.00
Lead	3.00	6.00
Mercury	0.03	0.06
Methylene Chloride	2.30	4.60
Naphthalene	0.84	1.68
Nickel	5.00	10.00
Selenium	0.10	0.20
Silver	0.71	1.42
Tetrachloroethylene	2.30	4.60
Toluene	3.85	7.70
Total Phenols	8.50	17.00
Total Phthalates	3.00	6.00
Trichloroethylene	1.70	3.40
Zinc	10.00	20.00
Threshold Limitations on Wastewater Strength Exceedances may be subject to surcharge**		
Ammonia as N (NH ₃ -N)	30	60
BOD ₅	350	400

Pollutant	Daily Average* Maximum Concentration (mg/L)	Instantaneous Maximum Concentration (mg/L)
TSS	200	400
Total Kjeldahl Nitrogen (TKN)	45	90
Oil and Grease	200	200
*Based on 24-hour flow proportional composite samples except for parameters that should be grab sampled.		
<p>**Threshold Limitations on Wastewater Strength are not deemed a violation, but are open for review if the exceedance causes the POTW to violate its NPDES Permit. The Control Authority reserves the right to place limits on an Industrial User as stated at Section 14 .1.</p> <p>Analyses for all pollutants listed in TABLE A1 shall be conducted in accordance with the requirements of 40 CFR Part 136 or equivalent methods approved by the United States Environmental Protection Agency. The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless otherwise indicated.</p>		

Table A2: Criteria to Protect the POTW Treatment Plant Influent (2015)

Parameter	Maximum Concentration in 24 Hour Flow Proportional Composite Sample (mg/l)	Maximum Instantaneous Concentration Grab Sample (mg/L)
Arsenic	0.0133	0.0266
Benzene	0.015	0.030
Cadmium	0.015	0.030
Carbon Tetrachloride	0.02	0.04
Chloroform	0.2576	0.5152
Chromium III	Report	Report
Chromium VI	Report	Report
Copper	0.5714	1.1428
Cyanide	0.0664	0.1328
Ethylbenzene	0.02857	0.05714
Lead	0.115	0.230
Mercury	0.001	0.002
Methylene Chloride	0.13	0.26
Naphthalene	0.0045	0.009
Nickel	0.310	0.620
Phenols, Total	0.50	1.00
Phthalates, Total	0.169	0.338

Parameter	Maximum Concentration in 24 Hour Flow Proportional Composite Sample (mg/l)	Maximum Instantaneous Concentration Grab Sample (mg/L)
Selenium	0.564	1.128
Silver	0.02	0.04
Tetrachloroethylene	0.125	0.250
Toluene	0.214	0.428
Trichloroethylene	0.09	0.18
Zinc	0.952	1.904
1,1,1-Trichloroethane	0.20	0.40
1,2 Transdichloroethylene	0.004	0.008

The above limits apply at the point where the wastewater enters the POTW treatment plant. All concentrations for metallic substances are for total metal unless otherwise indicated. (as replaced by ord. No. 350, and amended by Ord. #2015-959, April 2015)

8-309. State requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter. (as replaced by ord. No. 350)

8-310. City's right of revision. The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in section 8-302 of this chapter. (as replaced by ord. No. 350)

8-311. Excessive discharge. No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state. (Comment: Dilution may be an acceptable means of complying with some of the prohibitions set forth in section 8-305 e.g. the pH prohibition.) (as replaced by ord. No. 350)

8-312. Accidental discharges. Each User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Shelbyville Sewerage System for review, and shall be approved by the Shelbyville Sewerage System before construction of the facility. No user who commences contribution to the POTW after the

effective date of this chapter be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the Shelbyville Sewerage System. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the General Manager of the Shelbyville Sewerage System of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

Written notice. Within five (5) days following an accidental discharge; the user shall submit to the general manager a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this section or other applicable law.

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 insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (as added by ord. No. 350)

8-313. Purpose of fees. It is the purpose of this chapter to provide for the recovery of costs from Users of the Shelbyville Sewerage System's wastewater disposal system for implementation of the program established herein. The applicable discharges or fees shall be set forth in the Shelbyville Sewerage System's schedule of charges and fees. (as added by ord. No. 350)

8-314. Charges and fees. The Shelbyville Sewerage System may adopt charges and fees which may include:

- (1) fees for reimbursement of costs of setting up and operating the Shelbyville Sewerage System's Pretreatment Program;
- (2) fees for monitoring, inspection and surveillance procedures;
- (3) fees for reviewing accidental discharge procedures and construction;
- (4) fees for permit applications;
- (5) fees for filing appeals;
- (6) fees for consistent removal (by the Shelbyville Sewerage System) of pollutants otherwise subject to Federal Pretreatment Standards;
- (7) other fees as the Shelbyville Sewerage System may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the Shelbyville Sewerage System. (as added by ord. No. 350)

8-315. Wastewater discharges. It shall be unlawful to discharge without a permit issued by the Shelbyville Sewerage System to any natural outlet within the City of Shelbyville, or in any area under the jurisdiction of said Shelbyville Sewerage System, and/or to the POTW any wastewater except as authorized by the general manager in accordance with the provisions of this chapter. (as added by ord. No. 350)

8-316. Wastewater contribution permits. (1) General permits. All significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant users connected to or contributing to the POTW shall obtain a Wastewater Contribution Permit within 180 days after the effective date of this chapter.

(2) Permit application. Users required to obtain a wastewater contribution permit shall complete and file with the Shelbyville Sewerage System, an application in the form prescribed by the Shelbyville Sewerage System. Existing users shall apply for a wastewater contribution permit within 30 days after the effective date of this chapter, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (a) Name, address, and location, (if different from the address);
- (b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- (c) Wastewater constituents and characteristics including but not limited to those mentioned in this chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;
- (d) Time and duration of contribution;
- (e) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
- (g) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- (h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the

pretreatment standards are being met on a consistent basis and if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable Pretreatment Standards;

(i) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the User will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard:

The following conditions shall apply to this schedule:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(2) No increment referred to in paragraph (1) shall exceed 9 months.

(3) Not later than 14 days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the general manager including as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the General Manager.

(j) Each product produced by type, amount, process or processes and rate of production;

(k) Type and amount of raw materials processed (average and maximum per day);

(l) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(m) Any other information as may be deemed by the Shelbyville Sewerage System to be necessary to evaluate the permit application.

The Shelbyville Sewerage System will evaluate the data furnished by the User and may require additional information. After evaluation and acceptance of the data furnished, the Shelbyville Sewerage System may issue a wastewater contribution permit subject to terms and conditions provided herein.

(3) Permit modifications. Within 9 months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permit of the users subject to such standards shall be revised to require compliance

with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical standard, has not previously submitted an application for a wastewater contribution permit as required by 8-316(2) the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the general manager within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by paragraph (h) and (i) of section 8-316(2).

(4) Permit conditions. Wastewater discharge shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the Shelbyville Sewerage System. Permits may contain the following:

(a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(b) Limits on the average and maximum wastewater constituent and characteristics;

(c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.

(d) Requirements for installation and maintenance of inspection and sampling facilities;

(e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

(f) Compliance schedules;

(g) Requirements for submission of technical reports or discharge reports (see 8-317);

(h) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Shelbyville Sewerage System, and affording Shelbyville Sewerage System access thereto;

(i) Requirements for notification the Shelbyville Sewerage System or 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.

(j) Requirements for notification of slug discharges as per 8-323;

(k) Other conditions as deemed appropriate by the Shelbyville Sewerage System to ensure compliance with this chapter.

(5) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the Shelbyville Sewerage System during the term of the permit

as limitations or requirements as identified herein are modified or other just cause exists. The User shall be informed of any proposed changes in his 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.

(6) Permit transfer. Wastewater Discharge Permits are issued to a specific User for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new User, different premises, or a new or changed operation without the approval of the Shelbyville Sewerage System. Any succeeding owner or User shall also comply with the terms and conditions of the existing permit. (as added by ord. No. 350)

8-317. Reporting requirements for permittee. (1) Compliance date report. Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the general manager 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 to and, if not, what additional O&M 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 qualified professional.

(2) 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 general manager during the months of June and December, unless required more frequently in the pretreatment standard or by the general manager, report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in this section. At the discretion of the general manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the general manager may agree to alter the months during which the above reports are to be submitted.

(b) The general manager may impose mass limitations on Users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases, where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by

pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the general manager, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable 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 or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the Administrator. (as added by ord. No. 350)

8-318. Monitoring facilities. The Shelbyville Sewerage System to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the User's premises, but the Shelbyville Sewerage System may, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Shelbyville Sewerage System's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the Shelbyville Sewerage System. (as added by ord. No. 350)

8-319. Inspection and sampling. The Shelbyville Sewerage System 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 Shelbyville Sewerage System or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The Shelbyville Sewerage System, approval authority and EPA shall have the right to set up on the User's property such 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 Shelbyville Sewerage System, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. (as added by ord. No. 350)

8-320. Pretreatment. Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to Shelbyville Sewerage System shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Shelbyville Sewerage System for review, and shall be acceptable to the Shelbyville Sewerage System before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Shelbyville Sewerage System under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Shelbyville Sewerage System prior to user's initiation of the changes.

The Shelbyville Sewerage System shall annually publish in the local newspaper a list of the users which are not in compliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months.

All records relating the compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request. (as added by ord. No. 350)

8-321. Confidential information. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the Shelbyville Sewerage System that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System, (NPDES) Permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state 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 Shelbyville Sewerage System as confidential, shall not be transmitted to any governmental agency or to the general public by the Shelbyville Sewerage System until and unless a ten-day notification is given to the User. (as added by ord. No. 350)

8-322. Harmful contributions. The Shelbyville Sewerage System may suspend the wastewater treatment service and/or a wastewater contribution permit when such is necessary, in the opinion of the Shelbyville Sewerage System, 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 Shelbyville Sewerage System 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 Shelbyville Sewerage System 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 Shelbyville Sewerage System shall reinstate the wastewater contribution permit and/or the wastewater treatment 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 Shelbyville Sewerage System within 15 days of the date of occurrence. (as added by ord. No. 350)

8-323. Revocation of permit. Any user who violates the following conditions of this chapter, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this chapter.

- (1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics.
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (4) Violation of conditions of the permit. (as added by ord. No. 350)

8-324. Notification of violation. Whenever the Shelbyville Sewerage System finds that any User has violated or is violating this chapter, wastewater contribution permit, or any prohibition, limitation of requirements contained herein, the Shelbyville Sewerage System may cause to be served upon such

person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user. (as added by ord. No. 350)

8-325. Show cause hearing. The Shelbyville Sewerage System may order any User who causes or allows an unauthorized discharge to enter the POTW to show cause before the Shelbyville Electric Power, Water and Sewerage Board 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 Shelbyville Electric Power, Water and Sewerage Board 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 Shelbyville Electric Power, Water and Sewerage Board why the proposed enforcement action should be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

The Shelbyville Electric Power, Water and Sewerage Board may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the Shelbyville Sewerage System to:

(1) Issue in the name of the Shelbyville Electric Power, Water and Sewerage Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take the evidence;

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Shelbyville Electric Power, Water and Sewerage Board for action thereon.

At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

After the Shelbyville Electric Power, Water and Sewerage Board has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or, existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. (as added by ord. No. 350)

8-326. Legal action. If any person discharges sewage, industrial wastes or other wastes into the Shelbyville Sewerage System's wastewater disposal system contrary to the provisions of this chapter. Federal or state pretreatment requirements, or any order of the Shelbyville Electric Power, Water and

Sewerage Board, the attorney for the Shelbyville Sewerage System may commence an action for appropriate legal and/or equitable relief in, the chancery court or this county. (as added by ord. No. 350)

8-327. Civil penalties. Any User who is found to have violated an order of the Shelbyville Electric Power, Water and Sewerage Board or who willfully or negligently failed to comply with any provisions of this chapter, and the orders, rules, regulations and permits issued hereunder, shall be fined not less than one thousand dollars (\$1,000.00) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Shelbyville Sewerage System may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder. (as added by ord. No. 350 and amended by ord. No. 429)

8-328. Falsifying information. Any person who knowingly makes any false statements, representation or certification in any application, record report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater contribution permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, upon conviction, be punished by a fine of not more than \$50. (as added by ord No. 350)

8-329. Use of public sewers required. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of said city, any sewage or other polluted wastes, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Except as hereinafter 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..

(4) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city, and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter. Such connection shall be made at the place and in the manner as directed by the general manager. It shall be the duty of

the general manager to notify the property owner in writing by mail directed to his last known address that he is required to comply with this section. If the property owner has not complied within 30 days from the mailing of the notice, the general manager shall in like manner send him a final notice, together with a copy thereof to the occupant of the property if different from the owner, which notice shall advise the provisions of this section. If within 30 days from the mailing of the final notice the owner has not complied, it shall be the duty of the general manager and he is hereby directed and required to discontinue water service to said property. Provided, however, that in hardship cases and upon good cause shown, the general manager is authorized to defer discontinuing of the water service to said property for successive periods of 30 days from the expiration of the final notice, not to exceed in all six months. In addition it shall be unlawful for any such owner to fail to comply with this section within the time allotted him by notice as aforesaid. (as added by ord. No. 350)

8-330. Private sewerage disposal. (1) Where a public sanitary or combined sewer is not available, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

(2) Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the general manager. The application for such permit shall be made on a form furnished by the board, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the general manager. A permit and inspection fee of ten (\$10.00) dollars shall be paid to the board at the time the application is filed.

(3) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the general manager. He or his representative shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the general manager when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 12 (twelve) hours of the receipt of notice by the general manager.

(4) The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of Tennessee. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(5) At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter, and any facilities shall be abandoned and filled with suitable material.

(6) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the City of Shelbyville or to the board.

(7) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the health officer of Bedford County.

(8) When a public sewer becomes available, the building and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt. (as added by ord. No. 350)

8-331. Building sewers and connections. (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the general manager.

(2) There shall be two classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the board. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the general manager. A permit and inspection fee of ten dollars (\$10.00) shall be paid to the board at the time the application is filed.

(3) All costs and expense incidental to the installation and connection 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.

(4) A separate and independent building sewer shall be provided for every building; except that where one building stands at the rear of another or 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.

(5) Old building sewers may be used in connection with new buildings only when they are determined, after examination and testing by the general manager, to meet all requirements of this chapter.

(6) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

(7) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any

building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(8) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building which in turn is connected directly or indirectly to a public sanitary sewer.

(9) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the general manager before installation.

(10) The applicant for the building sewer permit shall notify the general manager when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the general manager.

(11) 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 board. (as added by ord. No. 350)

8-332. Severability. If any provision, paragraph, word, or section of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections, shall not be affected and shall continue in full force and effect. (as added by ord. No. 350)

8-333. Conflict. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict. (as added by ord. No. 350)

CHAPTER 4

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 8-401. Definitions.
- 8-402. Water system operation.
- 8-403. Responsibility for water system.
- 8-404. Applicability.
- 8-405. Back flow prevention and cross connections.
- 8-406. Inspection, testing and repair of customer's system.
- 8-407. Corrections of violations.
- 8-408. Statement of non-existence of unapproved connections.
- 8-409. Determination of need for back flow prevention
- 8-410. Approved back flow prevention devices.
- 8-411. Installation requirements.
- 8-412. Inspection and testing devices.
- 8-413. Safety standards -- duplicate equipment in parallel required.
- 8-414. Existing protection devices.
- 8-415. Inspection and testing fees.
- 8-416. Relief valves.
- 8-417. Thermal expansion control.
- 8-418. Non-potable supplies.
- 8-419. Conflicting provisions.
- 8-420. Penalties.

8-401. Definitions. The following definitions and terms shall apply in interpretation and enforcement of this chapter:

(1) "Air gap." A physical separation between the free flowing discharge end of a potable water supply line and an open or non-pressurized receiving vessel. An "approved air gap" shall be a distance at least double the diameter of the supply pipe when measured vertically above the overflow rim of the vessel but in no case less than one (1) inch.

(2) "Approved device or method." A backflow prevention device or method accepted by the Tennessee Department of Environment and Conservation, Water Supply and Shelbyville Power Water & Sewerage System.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from any sources other than from the public water system.

¹See title 4 for the plumbing code and title 13 for provisions providing for the administration of the water and sewer systems.

(4) "Auxiliary water supply." Any water supply on or available to the premises other than water supplied by the public water system.

(5) "Back flow." The reversal of the intended direction of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of potable water system from any source.

(6) "Back pressure." A pressure in downstream piping, higher than the supply pressure.

(7) "Back siphonage." Negative or sub-atmospheric pressure in the supply piping.

(8) "Back flow prevention assembly." A device designed to prevent back flow.

(9) "Bypass." Any system of piping or other arrangement whereby water may be diverted around a back flow prevention assembly, meter or any other city controlled device.

(10) "Contamination." The introduction or admission of any foreign substance that degrades the quality of a potable water supply or creates a health hazard.

(11) "Cross-connection." Any physical arrangement whereby public water supply is connected, directly or indirectly, either inside or outside of a building, with any other water supply whether public or private, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains or may contain contaminated water, sewage or other waste, liquid, gas or solid, of unknown or unsafe quality which may be capable of contaminating the public water supply as a result of back flow caused by the manipulation of valves, because of ineffective check valves or back pressure valves, or because of any other arrangement.

(12) "Cross-connection coordinator." That person who is vested with the authority and responsibility for the implementation of the cross-connection control program and for the enforcement of the provisions of this chapter.

(13) "Customer." Any natural or artificial person, business, industry or governmental entity that obtains water, by purchase or without charge, from the Shelbyville Water System.

(14) "Double check detector assembly." A specially designed assembly composed of a linesize approved double check valve assembly, with a bypass containing a water meter and approved double check valve assembly specifically designed for such application. The meter shall register accurately for very low rates of flow up to 3 gallons per minute and shall show a registration for all rates of flow. This assembly shall only be used to protect against non-health hazards and is designed primarily for use on fire sprinkler systems.

(15) "Double check valve assembly." An assembly of two internally loaded check valves, either spring loaded or internally weighted, installed as a unit between two tightly closing resilient seated shutoff valves and fitted with properly located resilient seated test cocks. This type of device shall only be used to protect against non-health hazard pollutants.

(16) "Fire system classification protection." The classes of fire protection systems, as designated by the American Water Works Association "Manual M14" for cross-connection control purposes based on water supply source and the arrangement of supplies, are as follows:

(a) Class 1: Direct connection to the public water main 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 well or other safe outlets.

(b) Class 2: Same as Class 1 except booster pumps may be installed in connection from the street mains.

(c) Class 3: Direct connection to public water supply mains in addition to any one or more of the following: elevated storage tanks; fire pumps taking suction from above ground covered reservoirs or tanks; and pressure tanks.

(d) Class 4: Directly supplied from 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 1700 feet of the pumper connection.

(e) Class 5: Directly supplied from public water supply mains and interconnection with auxiliary supplies such as pumps taking suction from reservoirs exposed to contamination, or from rivers, ponds, wells or industrial water systems; where antifreeze or other additives are used.

(f) Class 6: Combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(17) "General manager." General Manager of Shelbyville Power, Water & Sewerage System.

(18) "Hazard, degree of." A term derived from evaluation of the potential risk to public health and the adverse effect of the hazard upon the public water system.

(19) "Hazard, health." A cross connection or potential cross connection involving any substance that could, if introduced in the public water supply, cause death, illness, spread disease.

(20) "Hazard, plumbing." A cross-connection in a customer's potable water system plumbing that is not properly protected by an approved air gap or back flow prevention assembly.

(21) "Hazard, non-health." A cross-connection or potential cross connection involving any substance that would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the public water supply.

(22) "Industrial fluid." Any fluid or solution that may be chemically, biologically or otherwise contaminated or polluted in a form or concentration that could constitute a health, system, pollution or plumbing hazard if introduced into the public water supply. This shall include, but is not limited

to: polluted or contaminated water; all type of process water or used water originating from the public water system and that may have deteriorated in sanitary quality; chemicals; plating acids and alkalis; circulating cooling water connected to an open cooling tower; cooling towers that are chemically or biologically treated or stabilized with toxic substance; contaminated natural water systems; oil, gases, glycerin, paraffin, caustic and acid solutions, and other liquids or gases used in industrial processes, or for fire purposes.

(23) "Inter-connection." Any system of piping or other arrangement whereby a public water supply is connected directly with a sewer, drain, conduit, or other device which does, or may, carry sewage or other liquid or waste which would be capable of imparting contamination to the public water supply.

(24) "Pollution." The presence of a foreign substance in water that degrades its quality so as to constitute a health or non-health hazard or impair the usefulness of water.

(25) "Potable water." Water that is safe from human consumption as prescribed by the Tennessee Department of Environment and Conservation.

(26) "Public water supply." Shall mean the Shelbyville Water System, which furnishes potable water to the City of Shelbyville for general use and which is recognized as the public water supply by the Tennessee Department of Environment and Conservation, Water Supply.

(27) "Pressure vacuum breaker." An assembly consisting of one or two independently operating spring loaded check valve(s) and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valve(s) on each side of the check valves and properly located test cocks for testing the check valves.

(28) "Public water system." A water system furnishing water to the public for general use which is recognized as a public water supply by the state.

(29) "Reduced pressure principle assembly." An assembly consisting of two independently acting approved check valves together with hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and below the first check valve. These units shall be located between two tightly closing resilient seated shutoff valves as an assembly and equipped with properly located resilient seated test cocks.

(30) "Reduced pressure principle detector assembly." A specially designed assembly composed of a line-size approved reduced pressure principle back flow prevention assembly with a bypass containing a water meter and approved reduced pressure principle back flow prevention assembly specifically designed for such application. The meter shall register accurately for very low rates of flow up to 3 gallons per minute and shall show registration for all rates of flow. This assembly shall only be used to protect against non-health hazard or a health hazard.

(31) "Service connection." The point of delivery to the customer's water system; the terminal end of a service connection from the public water system where the water department loses jurisdiction and control over the water.

"Service connection" shall include connections to fire hydrants and all other temporary or emergency water service connections made to the public water system.

(32) "State." The State of Tennessee, or Tennessee Department of Environment and Conservation, Bureau of Environment, Division of Water Supply.

(33) "Water system." The water system operated by the City of Shelbyville, whether located inside or outside the corporate limits thereof, shall be considered as made up of two (2) parts, the utility system and the customers system.

(a) The utility system shall consist of the facilities for the production, treatment, storage, and distribution of water, and shall include all those facilities of the water system under the complete control of the water department, 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 water department distribution system that are utilized in conveying water to point of use. (1979 Code, § 8-401, as replaced by Ord. #705, Jan. 2003)

8-402. Water system operation. (1) The Shelbyville water system shall be operated at all times in compliance with Tennessee Code Annotated, § 68-221-101, et seq., and Regulations for Public Systems and Drinking Water Quality, Tennessee Department of Environment and Conservation, as amended from time to time.

(2) Prior to executing any work order for a new customer, or for any change in service to an existing customer, notification shall be given to the office of cross-connection control. Said inspectors, from the cross-connection office, shall make an immediate determination in writing to the customer, of the type of back flow prevention device(s) the customer needs to have installed. Water service shall not be established or maintained until all necessary back flow devices are installed. (1979 Code, § 8-402, as replaced by Ord. #705, Jan. 2003)

8-403. Responsibility for water system. (1) Notwithstanding any provisions of a plumbing code adopted by the City of Shelbyville, the general manager shall be responsible for protecting the system from contamination or pollution due to back flow through service connections and is hereby granted authority for implementation and enforcement of this chapter. Such authority shall extend beyond the service connection to whatever extent is necessary to meet the requirements of this chapter.

(2) The authority to terminate water service for violation of any provision of this chapter shall rest solely with the General Manager of Shelbyville Power, Water & Sewerage System. In the absence or incapability

of the general manager, the systems office manager or his/her designee shall have authority to take action to protect the public health and safety.

(3) This section shall not be construed to prevent other officers or employees of the city from terminating water service for failure to pay for water service, or for violating any other provision of the city code. (1979 Code, § 8-403, as replaced by Ord. #705, Jan. 2003)

8-404. Applicability. The requirements contained herein shall apply to all customers of the Shelbyville Power, Water & Sewerage System, whether located inside or outside the corporate limits of the city, and are hereby made a part of the conditions required to be met, before water service is provided to any customer. This chapter shall be strictly enforced since it is essential for the protection of the public water supply against contamination. (1979 Code, § 8-404, as replaced by Ord. #705, Jan. 2003)

8-405. Back flow prevention and cross connections. (1) It shall be unlawful for any person to cause a cross connection, auxiliary intake, bypass or inter-connection to be made, or allow one to exist for any purpose unless the construction and operation of same has been approved by the general manager and the State of Tennessee, and the operation of such cross-connection, auxiliary intake, bypass or inter-connection is at all times under the direction of the general manager.

(2) It shall be unlawful to install or allow any unprotected takeoffs from the water service line ahead of any meter or back flow prevention device located directly after the service connection, to a customer's water system.

(3) Service of water to any premises shall be discontinued if an approved back flow prevention assembly required by this chapter is not installed, tested and maintained, or, if it is found that a back flow prevention assembly has been removed, bypassed, altered or not kept in proper working condition, or, if an unprotected cross connection exists on the premises. Service will not be restored until such conditions or defects are corrected. Disconnection of water service may be in addition to any other civil or criminal penalties imposed by law or this chapter.

(4) If, in the judgment of the general manager or his/her designated representative, a back flow prevention assembly is required at a customer's service connection, or within the customer's water system, for the safety of the public water supply, the general manager or his/her designated representative shall give notice in writing to said customer to install a back flow prevention assembly at specific location(s) on his premises.

(5) For existing installations, the cross-connection coordinator may cause water service to be discontinued until such time as the customer complies with all requirements of state law and this chapter.

(6) For new commercial or industrial construction or renovation of a commercial or industrial property, the cross-connection coordinator or inspector

shall inspect the site and review plans in order to determine the type(s) of back flow prevention device, and notify the owner(s) in writing of the type of required device(s). Such device(s) shall be tested immediately upon connection to the public water system.

(7) The customer shall immediately install approved assembly(s) at his/her own expense. Failure, refusal or inability on the part of the customer to install, and maintain such an assembly shall be cause for discontinuance of, or refusal of, water service to the premises until such requirements are satisfactorily met.

(8) For all existing customers, the cross-connection coordinator or inspector from the cross-connection office shall perform evaluations and inspections and shall require correction of violations in accordance with this chapter.

(9) No installation, alteration or change(s) shall be made to any back flow prevention device connected to the public water supply without first securing permission from the cross-connection coordinator. (1979 Code, § 8-405, as replaced by Ord. #705, Jan. 2003)

8-406. Inspection, testing and repair of customer's system. (1) The general manager of his/her designated representative shall have the right to enter at any reasonable time any property served by the public water system for the purpose of inspecting the piping system therein for cross-connections, auxiliary intakes, bypasses or inter-connections, or for the testing of back flow prevention device(s). Upon request, the owner, lessee or occupant of any property so served shall furnish any pertinent information regarding the piping system on such property. Refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

(2) When cross connections, other structural or sanitary hazards, or any violation of this chapter becomes known, the general manager or his/her designated representative, shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition(s) in conformance with this chapter.

(3) It shall be the duty of the cross-connection coordinator that at any premises where back flow prevention assemblies are installed on internal pipelines carrying potable water, waste water, process water, or any other liquid, gas or undesirable substance, to have certified inspections and operational tests made at least once per year. In those instances where the cross-connection coordinator deems the hazard to be great enough, inspections may be required at more frequent intervals.

(4) All inspections, tests and repairs shall be at the expense of the customer and shall be performed by a person certified by the State of Tennessee and has the authority from the water purveyor. It shall be the duty of the general manager or his/her designated representative to see that these tests, or repairs are made in a timely manner. Assemblies found to be defective shall be

repaired, overhauled or replaced at the expense of the customer. Copies of all records of tests, repairs and overhaul shall be supplied to the cross-connection control office for retention.

(5) Failure to maintain a back flow prevention device in proper working order shall be grounds for discontinuance of water service. The removal, bypassing or altering of a protective device or the installation thereof so as to render a device ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the general manager or his/her designated representative. (1979 Code, § 8-406, as replaced by Ord. #705, Jan. 2003)

8-407. Corrections of violations. (1) Any customer having cross connections, auxiliary intakes, bypasses or interconnection(s) in violation of this chapter shall, after a thorough investigation of existing conditions and an appraisal of the time required, complete the work within the time designated by the cross-connection coordinator, but in no case shall the time for correction exceed ninety (90) days.

(2) Failure to comply with any order of the general manager or his/her designated representative within the time set out therein shall result in the termination of water service.

(3) Where cross connections, auxiliary intakes, bypasses or inter-connections are found to constitute an extreme hazard of immediate concern of contaminating the public water system, the general manager or his/her designated representative shall require immediate corrective action be taken to eliminate the threat. Expeditious steps shall be taken to disconnect the public water system from the customer's piping system unless the extreme hazard is corrected immediately.

(4) Upon written request by the customer, the general manager shall provide a hearing regarding any order of termination or refusal of water service; provided however, that when an order is issued pursuant to sub-section (3) of this section, such hearing may be held after such termination or refusal, but not later than five (5) working days after receipt of the request. Any customer aggrieved by such an order may appear in person, or by legal counsel, and show cause why an order to terminate water service, or to refuse water service, should be rescinded.

(5) Failure to correct conditions threatening the safety of the public water system as prohibited by this chapter or Tennessee Code Annotated, § 68-221-711 within the time limits set by the general manager or this chapter, shall be cause for denial or termination of water service. If proper protection is not provided after a reasonable time, the general manager or his/her designated representative shall give the customer written notification that water service is to be discontinued, and thereafter physically separate the public water system from the customer's system in such manner that the two systems cannot again

be connected by an unauthorized person. (1979 Code, § 8-407, as replaced by Ord. #705, Jan. 2003)

8-408. Statement of non-existence of unapproved connections. Any customer who has on the same premises a well or other auxiliary 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 cross-connection coordinator a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypassed or inter-connections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass or inter-connection will be permitted upon the premises until the construction and operation of same has been approved by the state, and operation and maintenance of same has been placed under direct supervision of the General Manager of Shelbyville Power Water & Sewerage Systems. Such statement shall also include the location of all additional water sources utilized on premises and how they are used. Maximum backflow protection shall be required on all public water sources supplied to the premises. (1979 Code, § 8-408, as replaced by Ord. #705, Jan. 2003)

8-409. Determination of need for back flow prevention. An approved back flow prevention assembly shall be installed 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, if it is impractical to provide effective air-gap separation, when any of the following conditions exist:

(1) Premises where industrial fluids or any other non-potable substances are handled in such a manner as to create actual or potential hazard to the public water system; or

(2) Premises having internal cross connections that cannot be permanently corrected and controlled, intricate plumbing and piping arrangements, or where entry to all portions of the premises is not readily accessible for inspection purposes making it impracticable or impossible to ascertain whether or not cross connections exist; or

(3) Premises having an auxiliary water supply, including but not limited to a well, cistern, spring or pond, rivers or creeks that is not, or may not be, of safe bacteriological or chemical quality and that is not acceptable as an additional source by the general manager or his/her designated representative; or

(4) The plumbing from a private well or other water supply enters the building served by the public water supply, or is connected, directly or indirectly, to the public water supply; or

(5) The owner or occupant of the premises cannot, or is not willing, to demonstrate that the water use and protective features of the plumbing are such as to pose no threat to the safety or portability of the water; or

(6) The nature and mode of operation within the premises is such that frequent alterations are made to the plumbing;

(7) The nature of the premises is such that the use of the structure may change to a use wherein back flow prevention is required;

(8) There is a likelihood that protective measures may be subverted, altered or disconnected; or

(9) Any premises having service and fire flow connections, most commercial and educational buildings, construction sites, all industrial, institutional and medical facilities; lawn irrigation systems, public or private swimming pools, private fire hydrant connections used by any fire department in combating fires, photographic laboratories, standing ponds or other bodies of water, or auxiliary water supplies; or

(10) Any premises having fountains, water softeners or other point of use treatment systems, hot tubs or spas, or other type(s) of water using equipment; or

(11) Premises otherwise determined by the general manager or his/her designated representative to create an actual or potential hazard to the public water supply. (1979 Code, § 8-409, as replaced by Ord. #705, Jan. 2003)

8-410. Approved back flow prevention devices. All back flow prevention devices shall be fully approved by the foundation for cross connection control and hydraulic research, and listed as acceptable by the State of Tennessee as to manufacture, model, size and application. The method of installation of back flow prevention devices shall be approved by the cross-connection control office prior to installation and shall comply with installation criteria set forth by the State of Tennessee Cross-Connection Control Manual. Installation shall be at the sole expense of the owner or occupant of the premises.

The type of protective assembly required by this chapter shall depend upon the degree of hazard that exists as follows:

(1) A back flow prevention assembly shall be installed on each fire service line 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 wherever any of the following conditions exist:

(a) Class 1 fire protection systems generally shall require a double check detector assembly; provided however, that a reduced pressure principle detector assembly shall be required where:

(i) Underground fire sprinkler pipelines are parallel to and within ten (10) feet horizontally of pipelines carrying wastewater or significantly toxic wastes; or

(ii) Premises have unusually complex piping systems; or

(iii) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks; or

- (iv) The piping system(s) has corrosion inhibitors or other chemicals added to prevent freezing; or
- (v) An auxiliary water supply exists within 1700 feet of any likely pumper connection.
- (b) Class 2, Class 3, Class 4, Class 5 and Class 6 fire protection systems shall require an air gap, or, a reduced pressure principle detector assembly, as determined by the cross-connection coordinator.
- (c) Where a fire sprinkler system is installed on the premises, a minimum of a double check detector assembly shall be required.
- (d) Where a fire sprinkler system uses chemicals, such as liquid foam, to enhance fire suppression a reduced pressure principle detector assembly shall be required.
- (e) The cross-connection coordinator may require internal or additional back flow prevention devices where it is deemed necessary to protect potable water supplies within the premises.
- (2) In the case of any premises with an auxiliary water supply as set out in § 8-409(3), and not subject to any of the following rules, the public water system shall be protected by an air gap separation or a reduced pressure principle back flow prevention assembly.
- (3) In the case of any premises where there is water or substances that would be objectionable but not hazardous to health if introduced in to the public water system, a double check valve assembly shall protect the public water system.
- (4) In the case of any premises where there is any material dangerous to health that is handled in such a fashion as may create an actual or potential hazard to the public water system, the public water system shall be protected by an air gap separation or a reduced pressure principle back flow prevention assembly. Premises where such conditions may exist include but is not limited to: sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and planting plants.
- (5) In the case of any premises where there are uncontrolled cross connections, either actual or potential, the public water system shall be protected by an air gap separation or a reduced pressure principle back flow prevention assembly at the service connection.
- (6) In the case of any premises where, because of security requirements or other prohibitions or restrictions it is impossible or impractical to make a complete cross connection survey, the public water system shall be protected against back flow from the premises by either an air gap separation or a reduced pressure principle back flow prevention assembly on each service line to the premises.
- (7) In the case of any premises where toxic substances are present that could pose an undue health hazard, the general manager or his designated representative may require an air gap at the service connection to protect the public water system. In making this determination, the general manager or his

designated representative shall consider the degree of hazard. (1979 Code, § 8-410, as replaced by Ord. #705, Jan. 2003)

8-411. Installation requirements. Minimum acceptable criteria for installation of back flow prevention assemblies, or other devices requiring regular inspection and testing by this chapter, shall include the following:

(1) All back flow prevention devices shall be installed in a horizontal run of pipe. No vertical installation of back flow prevention devices shall be allowed unless such device is approved for such installation by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research, and the Tennessee Department of Environment and Conservation, Division of Water Supply, approved list.

(2) Installation of back flow prevention devices shall be performed only by persons certified by the state and has the authority from the water purveyor. All backflow prevention devices installed on a fire protection system, the installers must have a states contractor's license. Evidence of current certification/license must be on file, with the cross-connection control office before any installation or testing of the device can be done.

(3) All devices shall be installed in accordance with the manufacturer's installation instructions and by the State of Tennessee installation guide; from the state manual on cross-connection, unless such instructions are in conflict with this chapter, in which case the chapter shall control, and shall possess all test cocks and fittings required for testing the device. All test cock will be fitted with caps and all fittings shall permit direct connection to test devices used by the department.

(4) The entire assembly including test cocks and valves shall be easily accessible for testing and repair, and shall meet all confined space requirements of OSHA/TOSHA.

(5) Reduced pressure back flow prevention devices shall be located so that the relief valve discharge port is a minimum of twelve (12") inches, plus the nominal diameter of the supply line, above the ground floor surface. Maximum height above the floor surface shall not exceed sixty (60") inches.

(6) Clearance of devices from wall surfaces or other obstructions shall be a minimum of six (6) inches; or, if a person must enter the enclosure for repair or testing, the minimum distance shall be twenty-four (24) inches.

(7) Devices shall be protected from freezing, vandalism, mechanical abuse, and from any corrosive, sticky, greasy, abrasive or other damaging substance.

(8) Devices shall be positioned where discharge from a relief port will not create undesirable conditions. An approved air-gap shall separate the relief port from any drainage system. Such air-gap shall not be altered without the specific approval of the department.

(9) Devices shall be located in an area free from submergence or flood potential.

(10) All devices shall be adequately supported to prevent sagging.

(11) An approved strainer, fitted with a test cock, shall be installed immediately upstream of all back flow devices or shut-off valves except on fire lines, using only non-corrosive fittings (e.g., brass or bronze) in the device assembly.

(12) Gravity drainage is required on all installations. Below ground installations shall not be permitted.

(13) Fire hydrant drains shall not be connected to the sanitary sewer, and fire hydrants shall not be installed in such manner that back-siphonage or back flow through the drain may occur.

(14) Where jockey (low volume-high pressure) pumps are utilized to maintain elevated pressure, as in a fire protection system, the discharge of the pump shall be on the downstream side of any check valve or back flow prevention device. Where the supply for the jockey pump is taken from the upstream supply side of the check valve or back flow prevention device, a backflow prevention device of the same type(s) required on the main line shall be installed on the supply line.

(15) Fixed position, high volume fire pumps shall be equipped with a suction limiting control to modulate the pump if the residual line pressure reaches 20 psi. If line pressure drops below 20 psi the pump will shut off to protect the distribution system. This shut off system must be tested annually for proper operation and a report of the test must be sent to the office of cross-connection control. (as added by Ord. #705, Jan. 2003)

8-412. Inspection and testing of devices. Backflow prevention device(s) shall be tested at least annually by a person(s) possessing valid certification from the state for the testing of such devices. The cross-connection office shall maintain records of all tests and state certification.

Any company that has a state license from the state fire marshal office and a certificate from the State of Tennessee Department of Environment and Conservation, Division of Water Supply will test backflow devices that are installed on fire protection systems. Each company will have a copy of their license/certificate on file at the cross-connection office.

The general manager or his/her designated representative shall have the right to inspect and test any device(s) whenever he/she deems necessary. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises. (as added by Ord. #705, Jan. 2003)

8-413. Safety standards--duplicate equipment in parallel required. Where the use of water is critical to the continuation of normal operations or protection of life, property or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair a back flow prevention device. Until such time as a parallel unit has been installed where the continuance of service is critical, the general manager or his/her designated

representative shall notify the occupant of the premises, in writing, or plans to interrupt water service and arrange for a mutually acceptable time to test or repair the device. (as added by Ord. #705, Jan. 2003)

8-414. Existing protection devices. All presently installed back flow prevention assemblies which were previously acceptable by the state, that complies with the installation, testing and maintenance requirements of this article, and in the sole discretion of the general manager or his/her designated representative, adequately protect the public water system from back flow, and that were approved assemblies for the purpose described herein at the time of installation may be retained in service.

Location or space requirements shall not be cause for re-location or replacement unless such location or space limitations constitute a safety hazard, in the opinion of the general manager or his/her designated representative.

Any back flow prevention device that is presently installed in a vertical run of pipe shall be replaced, or re-installed, in an approved manner in a horizontal run of pipe.

Whenever an existing assembly is moved from the present location, or when the inspector finds that the condition of the assembly constitutes a health hazard, the unit shall be replaced by a back flow prevention assembly meeting the requirements of this chapter. (as added by Ord. #705, Jan. 2003)

8-415. Inspection and testing fees. (1) Fees for initial or annual tests of a back flow prevention device shall be established by the water board based on the recommendations of the general manager to reflect the cost of conducting such test.

(2) In the event that a back flow prevention device fails the initial or annual test, or there are deficiencies in the installation either from failure to conform to the installation criteria specified in this chapter, or from deterioration, then the general manager or his/her designated representative shall issue a written notice of failure or deficiency. There shall be no fee for re-inspection by the city provided the failure or deficiency is corrected within thirty (30) days of the written notice.

(3) Whenever a failure or deficiency mentioned in subsection (2) is not corrected within thirty (30) days of written notification, a fee of \$50.00 shall be charged for retesting.

(4) The fee shall be assessed each time a device is retested by the city subsequent to failure or deficiency after the initial thirty (30) days period set out in subsection (2). Where a second re-inspection or re-testing is required to correct violations or deficiencies, the fee shall be \$150.00. If a third or more re-inspection or re-testing is required, a re-inspection or re-testing fee of \$300.00 for each successive re-inspection or re-testing shall be charged to the customer in addition to other enforcement actions if all of the deficiencies have still not been corrected.

(5) The general manager may waive any fees and/or any cost that should be appropriately relieved. (as added by Ord. #705, Jan. 2003)

8-416. Relief valves. All storage water heaters operating above atmospheric pressure shall be provided with an approved, self-closing (levered) pressure relief and temperature valve or combination thereof, except for nonstorage instantaneous heaters. Such valves shall be installed in the shell of the water heater tank or may be installed in the hot water outlet, provided the thermo-bulb extends into the shell of the tank. Temperature relief valves shall be so located in the tank as to be actuated by the water in the top 1/8 of the tank served.

For installations with separate storage tank, said valve shall be installed on the tank and there shall not be any type of valve installed between the water and the storage tank. There shall not be a check valve or shut off valve between a relief valve and the heater or tank which it serves. The relief valve shall not be used as a means of controlling thermal expansion. (as added by Ord. #705, Jan. 2003)

8-417. Thermal expansion control. A device for the control of thermal expansion shall be installed on the customers water system where the thermal expansion of the water in the system will cause the water pressure to exceed the pressure setting of the pressure relief valve of the water heater. The thermal expansion device shall control the water pressure too less than the pressure setting of the pressure relief valve on the water heater. (as added by Ord. #705, Jan. 2003)

8-418. Non-potable supplies. (1) Any water outlet connected to auxiliary water sources, industrial fluid systems, or other piping containing non-potable liquids or gases, which could be used for potable or domestic purposes, shall be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

(2) The minimum acceptable sign shall have black letters at least one inch (1") high on a red background.

(3) Color coding of piping in accordance with Occupational Safety and Health Act guidelines may be required in locations where, in the judgment of the inspector, such color coding is necessary to identify and protect the potable water supply. (as added by Ord. #705, Jan. 2003)

8-419. Conflicting provisions. If any provision of this chapter is found to conflict with any provision of any other ordinance or city code, then the provision of this chapter shall control. That, should any part, or parts of this chapter be

declared invalid for any reason, no other part, or parts, of this chapter shall be affected thereby. (as added by Ord. #705, Jan. 2003)

8-420. Penalties. Any person responsible for a violation of this chapter shall, upon conviction in the city court, may be subject to a civil penalty of not less than \$50.00 nor more than \$500.00. Each day a violation occurs shall constitute a separate offense. In addition to the foregoing fines and penalties, the General Manager of Shelbyville Power, Water & Sewerage System shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass, or inter-connection, and service shall not be restored until such cross-connection, auxiliary-intake, by-pass, or inter-connection has been discontinued. (as added by Ord. #705, Jan. 2003)

CHAPTER 5

NUISANCES

SECTION

8-501. Nuisances generally.

8-502. Repealed.

8-503. Smoke, soot, etc., creating a nuisance.

8-501. Nuisances generally. Whenever the city council shall, by any means, have knowledge or receive notice of the existence of any unhealthy, unsanitary, unsafe, dangerous, hazardous, obnoxious, or offensive condition, structure, or situation in connection with or in relation to any building, structure, fixture, land, lot, property, or other thing whatsoever owned, operated, controlled, or managed by any person in the city or within its police jurisdiction, the city council may, by proper resolution, declare the existence or continuance of such unhealthy, unsanitary, unsafe, hazardous, noisy, obnoxious, or offensive condition, structure, or situation, adversely affecting the public health, safety, welfare, or happiness, a nuisance, and give notice thereof to all such persons interested in such resolution. The city council may, by the same or other and different resolutions, direct the persons (whether one or more) owning, operating, controlling, or managing the building, structure, fixture, land, lot, property, or other thing in connection with which or in relation to which, such nuisance exists or is maintained, to remedy (within such reasonable time as may be prescribed in such resolution) the unhealthy, unsanitary, unsafe, dangerous, hazardous, noisy, obnoxious, or offensive condition, structure, or situation, so as fully to abate the nuisance so declared by resolution to be a nuisance. The "reasonable time" mentioned in this section shall be of such duration as will afford the person against whom such resolution may be directed, a reasonable opportunity to be heard with reference to the same, but the decision of the city council on such hearing shall not be reviewable, except when arbitrary and capricious.

Without limitation of the generality of this section, this section is specifically intended to apply:

(1) to any unhealthy, unsanitary, unsafe, dangerous, hazardous, noisy, obnoxious, or offensive condition or situation existing in or in connection with any such building, structure, fixture, lot, land, property, or other thing on, in, above, over, under, or near, any public street, road, alley, pavement, sidewalk, or other public place;

(2) to any awning or marquee similar to those usually or customarily placed above the pavement in front of store buildings and other public buildings; and

(3) to any condition or situation arising in connection with any manufacturing business or establishment.

The enumeration in this section of certain unhealthy, unsanitary, unsafe, dangerous, hazardous, noisy, obnoxious, or offensive conditions or situations, shall not be held or construed to exclude others within the meaning of the general terms of this section, nor in anywise to limit the full application of the general terms hereof.

It shall be unlawful and a misdemeanor for any person to fail to comply with any resolution directing the remedying of any unhealthy, unsanitary, unsafe, dangerous, hazardous, noisy, obnoxious, or offensive condition.

Upon the failure of any person to comply within the time specified with each and every resolution directing the remedying of any unhealthy, unsanitary, unsafe, dangerous, hazardous, noisy, obnoxious, or offensive condition or situation, the city council may itself abate such nuisance at the expense of such person without further notice, the sum so expended to be recovered by suit. (1979 code, § 8-601)

8-502. (Repealed.) This section was repealed in its entirety by ord. No. 403.

8-503. Smoke, soot, etc., creating a nuisance. The emission or escape into the open air within the City of Shelbyville of fly ash, dust, soot, cinders, acids, fumes, or gases caused by and directly resulting from the combustion of fuel or refuse in such manner or in such amounts as shall be detrimental to or shall endanger the health, comfort, safety, or welfare of the public, or shall cause injury to property or business, is hereby declared to be and shall constitute a public nuisance. It shall be unlawful for any person or persons, firm or corporation to cause, permit, or maintain any such public nuisance.

Any person or persons, firm or corporation violating any of the provisions of this section, and all persons participating in any such violation, whether as owners, lessees, agents, tenants, officers, or employees, or otherwise, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined under the general penalty clause for this code. (1979 code, § 8-603)

CHAPTER 6

PRIVATE COLLECTORS OF SOLID WASTE

SECTION

8-601. Application.

8-602. [Deleted.]

8-603. Issuance.

8-604. Effective period and fee.

8-605. Changes in fee.

8-606. Display of decals and vehicle identification.

8-601. Application. Any person desiring to secure a permit for the private collection of garbage, rubbish or industrial waste shall submit an application therefor to the director of Public Works. The application shall contain the following information:

(1) Private collector's name, home address, business address and telephone numbers.

(2) A description of the vehicle to be used by the private collector within the City of Shelbyville, including a full description thereof.

(3) The date upon which the applicant desires the permit to be issued.

(4) Proof of public liability insurance issued by a company authorized to do business in the State of Tennessee in the amount of \$100,000.00 for death or injury to any one person in one accident; \$300,000.00 for death or injury to more than one person in any one accident and \$50,000.00 property damage.

(5) Such other and further information as the director may require. (as added by ord. No. 446)

8-602. [Deleted.] This section was deleted by Ord. #521, March 1995.

8-603. Issuance. Upon verification of the information contained in the application and successfully passing the safety and sanitary inspection, the director shall issue a permit. (as added by ord. No. 446)

8-604. Effective period and fee. The private garbage collection permit shall be effective for the fiscal year beginning on July 1 until the next ensuing thirtieth day of June on and after which date it shall be null and void. The licensed private collector shall pay an annual fee of twenty-five dollars (\$25.00). The fee is per vehicle engaged in hauling of solid waste within the

City of Shelbyville payable annually in advance. If an applicant applies for a permit at a point in time after July 1 but before December 31, he must pay the full fee. Application made anytime after December 31 but prior to the issuance date for new permits may pay a fee of one half the established annual fee. Any permit holder who discontinues business or discontinues use of a permitted vehicle shall not be entitled to a refund. (as added by ord. No. 446)

8-605. Changes in fee. The annual fee may be increased or decreased by resolution of the council of the City of Shelbyville from time to time as deemed warranted by the council. Such change in fees will become effective at the beginning of the next fiscal year. (as added by ord. No. 446)

8-606. Display of decals and vehicle identification. (1) The issuance of a permit shall be evident by displaying a permit decal issued by the City of Shelbyville. Such decal shall be securely affixed to the lower left hand corner of the vehicle windshield.

(2) Each permitted vehicle shall have painted on the doors of each side in letters no smaller than three inches (3") the name of the company and the permit number. (as added by ord. No. 446)

CHAPTER 7

SOLID WASTE TRANSFER STATION

SECTION

8-701. Eligibility to use transfer station.

8-702. Fee.

8-703. Tipping fee.

8-704. No requirement to use transfer station.

8-705. Director of public works authorized to develop rules and regulations.

8-701. Eligibility to use transfer station. Any individual or firm engaged in the business of transporting solid waste, or any individual transporting waste he himself generated, or any employee or owners of a business enterprise transporting waste generated by the business activity, shall be eligible to dispose of his waste at the Shelbyville transfer station provided he pays the established tipping fee and abides by the rules and regulations adopted by the director of public works. (as added by ord. No. 447)

8-702. Fee. The fee for disposal of waste at the transfer station shall be \$8.50 per cubic yard. Cubic yards of waste shall be measured by the capacity of the vehicle. The customer shall pay the appropriate tipping fee based on the capacity of the vehicle regardless of the amount of waste in the vehicle. (as added by ord. No. 447)

8-703. Tipping fee. The amount of the tipping fee may be changed from time to time by resolution of the council of the City of Shelbyville. The fee may be changed at any time the council deems a change is necessary. (as added by ord. No. 447)

8-704. No requirement to use transfer station. Nothing in this chapter shall be interpreted as requiring waste haulers to use the transfer station. They may continue to directly transport waste to the landfill. (as added by ord. No. 447)

8-705. Director of public works authorized to develop rules and regulations. The director of public works is hereby authorized to develop such rules and regulations as may be advisable or necessary to ensure collection of tipping fees, the efficient operation of the transfer station and the safe and sanitary collection and transportation of solid waste within the City of Shelbyville. (as added by ord. No. 447)

CHAPTER 8

STORMWATER DRAINAGE¹

SECTION

- 8-801. General drainage.
- 8-802. Regulations and technical guidelines.
- 8-803. Master drainage basin plans.
- 8-804. Inspection of private drainage systems.
- 8-805. Limitation on construction.
- 8-806. City engineer review of building permits.
- 8-807. Grading plans required.
- 8-808. Flood plain regulations.
- 8-809. Alterations of flood plain land and drainage channels.
- 8-810. Development within floodways.
- 8-811. Degree of flood protection.
- 8-812. Penalties and injunctive relief.

8-801. General drainage. (1) Storm water drainage shall be separate from the sanitary sewer system.

(2) Surface water drainage facilities, either by pipe or open ditch, shall be approved by the city manager.

(3) All work by the city shall be confined to a dedicated drainage easement, same to conform to the lines of such water course and of such width as will be adequate.

(4) All culverts or other structures to be constructed to provide said drainage shall be approved by the city manager, city engineer or authorized agent.

(5) Drainage as provided in subsection (2) shall be provided by city personnel. All drainage culverts or structures shall be at the expense of the property owner, size of same to be determined by the city manager. Work done in said areas shall be provided in accordance with 12-103.

(6) The minimum diameter for all storm drains shall be 15 inches. (1979 Code, § 12-502, as amended by Ord. #760, Dec. 2004)

¹Ord. No. 453 purports to add chapter 7 to title 8 of the Shelbyville Municipal Code. However Ord. No. 446 added a chapter 7 to title 8, and Ord. No. 447 was added by the compiler as chapter 8, to title 8. Therefore, Ord. No. 453 was added as this chapter, chapter 9, to title 8.

Ord. #2013-927, amends this chapter by referencing the adoption of the City of Shelbyville Stormwater Management Program under 2010 General Permit.

8-802. Regulations and technical guidelines. The city manager shall develop and implement written regulations and technical guidelines to

(1) Control storm drainage facilities, grading, excavation, clearance, and other alteration of the land in order to limit the dangers of personal injury or property damage that may be caused by stormwater runoff;

(2) Meet the requirements of any National Pollutant Discharge Elimination System General Permit to which the City of Shelbyville is subject, and

(3) Implement the provisions of title 11, chapter 4 of this code, the flood damage prevention ordinance, or any successor ordinance for flood damage prevention, to ensure eligibility for the City of Shelbyville under the National Flood Insurance Program. Upon adoption by motion of the city council, no person shall take any action that violates these regulations. (as added by Ord. #453, and replaced by Ord. #760, Dec. 2004)

8-803. Master drainage basin plans. The city manager shall have the authority to prepare, or require to have prepared, master plans for drainage basins and such details as may be needed to carry out said master plans. (as added by Ord. #453, and replaced by Ord. #760, Dec. 2004)

8-804. Inspection of private drainage systems. Private drainage systems shall be maintained in accordance with regulations adopted pursuant to this chapter. The director of public works shall have the authority to inspect private drainage systems within City of Shelbyville, and to order such corrective actions to said private drainage systems as are necessary to maintain properly the major and minor drainage systems within City of Shelbyville. (as added by Ord. #453, and replaced by Ord. #760, Dec. 2004)

8-805. Limitation on construction. No construction or property improvement, whether by private or public action, shall be performed in such a manner as to materially increase the degree of flooding in its vicinity or in other areas whether by flow restrictions, increased runoff or by diminishing retention capacity. (as added by Ord. #453, and replaced by Ord. #760, Dec. 2004)

8-806. City engineer review of building permits. All building permit applications, unless exempted by regulations issued pursuant to this ordinance, shall be referred to the city engineer by the department of codes administration to determine whether there is a need for plans for drainage, grading, or erosion control. The city engineer shall have authority to review all building permit applications which shall be referred to him. No building permit shall be issued until required drainage, grading, or erosion control plans have been approved by the city engineer. (as added by Ord. #453, and replaced by Ord. #760, Dec. 2004)

8-807. Grading plans required. Detailed grading and drainage plans, with supporting calculations prepared by a registered engineer, shall be submitted to the city engineer for review and approval prior to the initiation of work by persons responsible for the development of any property, subject to the provisions and exemptions provided for in the regulations issued pursuant to § 8-802. Where applicable, an erosion control plan prepared by a design professional or soil scientist shall be included in order to prevent sedimentation from reducing the flow carrying capacity of the downstream drainage system. For purposes of this section, the development of any property shall include the grading, excavation, clearance or other alteration of the landscape, whether or not a building application has been filed, and whether or not subdivision of the land or construction on the land is contemplated in the near future. (as added by Ord. #453, and replaced by Ord. #760, Dec. 2004)

8-808. Flood plain regulations. Uses permitted within the flood plain shall be in accordance with regulations issued pursuant to this chapter. The regulations and controls for flood plain developments shall be applied within the areas designated on the FEMA map or on special overlays thereto. However, nothing contained herein shall prohibit the application of the regulations to lands which can be demonstrated by competent engineering survey, using the adopted profiles from which the flood protection elevation is derived, to lie within any flood plain, and conversely, or require the application of the regulations to any lands which can be demonstrated by competent engineering to lie beyond the flood plain regulations. Any lands within the areas designated as flood plains on the zoning map or special overlays thereto shall be subject to the regulations and controls pertaining to flood plains as set forth in this chapter. (as added by Ord. #453, and replaced by Ord. #760, Dec. 2004)

8-809. Alterations of flood plain land and drainage channels. No alterations of flood plain land and drainage channels may be made without the written approval of the city engineer and in accordance with regulations issued pursuant to this chapter. (as added by Ord. #760, Dec. 2004)

8-810. Development within floodways. No development will be allowed within floodways that would impair their capability to carry and discharge a 100-year flood except where it can be shown by a registered professional engineer that the effect on flood heights is fully offset by stream improvements. (as added by Ord. #760, Dec. 2004)

8-811. Degree of flood protection. The degree of flood protection intended to be provided by this chapter and regulations issued pursuant thereto is considered reasonable for regulatory purposes, and is based on engineering and scientific methods of study. Larger floods may occur on occasions, or the flood height may be increased by man-made or natural causes, such as bridge

openings restricted by debris. This chapter does not imply that areas outside flood plain zoning district boundaries or land uses permitted within such district will always be totally free from flooding or flood damages. Nor shall this chapter create a liability on the part of or a cause of action against the City of Shelbyville or any officer or employee; thereof, for any flood damages that may result from implementation of this chapter. (as added by Ord. #760, Dec. 2004)

8-812. Penalties and injunctive relief. Any violations of this chapter or the regulations issued pursuant thereto shall be punishable by a fine for each and every violation. Any person who violates this chapter is subject to civil penalties under and pursuant to Tennessee Code Annotated, § 68-221-1106. Every day that said violation continues shall be a separate offense. In addition to all other remedies provided by law, the City of Shelbyville shall have the right to injunctive relief for any violation of this chapter or regulations issued pursuant thereto. (as added by Ord. #760, Dec. 2004, and replaced by Ord. #861, Oct. 2008)

CHAPTER 9

SLUM CLEARANCE¹

SECTION

- 8-901. Findings of board.
- 8-902. Definitions.
- 8-903. "Public officer" designated; powers.
- 8-904. Initiation of proceedings; hearings.
- 8-905. Orders to owners of unfit structures.
- 8-906. When public officer may repair, etc.
- 8-907. When public officer may remove or demolish.
- 8-908. Lien for expenses; sale of salvage materials; other powers not limited.
- 8-909. Basis for a finding of unfitness.
- 8-910. Service of complaints or orders.
- 8-911. Enjoining enforcement of orders.
- 8-912. Additional powers of public officer.
- 8-913. Powers conferred are supplemental.

8-901. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the city council finds that there exists in the Town of Shelbyville 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 such municipality. (Ord. #536, Nov. 1995)

8-902. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

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

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

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

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

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

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

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

(8) "Public officer" 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.

(9) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (as added by Ord. #536, Nov. 1995)

8-903. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (as added by Ord. #536, Nov. 1995)

8-904. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or the public officer may designate that the hearing be held before the city judge) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (as added by Ord. #536, Nov. 1995)

8-905. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he

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

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

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (as added by Ord. #536, Nov. 1995)

8-906. 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." (as added by Ord. #536, Nov. 1995)

8-907. 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. (as added by Ord. #536, Nov. 1995)

8-908. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any

court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, 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 Bedford County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Shelbyville to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #536, Nov. 1995, and amended by Ord. #873, July 2009)

8-909. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Shelbyville, such conditions may include but are not limited to the following: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (as added by Ord. #536, Nov. 1995)

8-910. 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 Bedford County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #536, Nov. 1995)

8-911. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit in chancery court for an injunction restraining the public officer from carrying out

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

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as added by Ord. #536, Nov. 1995)

8-912. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (as added by Ord. #536, Nov. 1995)

8-913. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #536, Nov. 1995)

CHAPTER 10

SEWER USE ORDINANCE

SECTION

- 8-1001. General provisions.
- 8-1002. General sewer use requirements.
- 8-1003. Pretreatment of wastewater.
- 8-1004. Fees.
- 8-1005. Individual wastewater discharge permits and general permits.
- 8-1006. Individual wastewater discharge and general permit issuance.
- 8-1007. Reporting requirements.
- 8-1008. Compliance monitoring.
- 8-1009. Confidential information.
- 8-1010. Publication of users in significant noncompliance.
- 8-1011. Administrative enforcement remedies.
- 8-1012. Judicial enforcement remedies.
- 8-1013. Affirmative defenses to discharge violations.
- 8-1014. Miscellaneous provisions.

8-1001. General provisions. (1) Purpose and policy. This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Shelbyville, Tennessee, hereinafter referred to as "the city." The control authority is the Shelbyville Power, Water and Sewerage Board also referred to as "the board," and enables the city to comply with all applicable state laws and regulations and federal laws required by the Federal Water Pollution Control Act of 1972 and its subsequent amendment, and the general pretreatment regulations (40 CFR, part 403).

The objectives of this ordinance are:

- (a) To prevent the introduction of pollutants into the Publicly Owned Treatment Works (POTW) system which will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants into the POTW system in amounts which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (c) To protect both the POTW system personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (d) To improve the opportunity to recycle and reclaim wastewaters and sludge from the POTW system;
- (e) To provide fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW system; and

(f) To enable the Shelbyville Power, Water and Sewerage System to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW system is subject.

This ordinance provides for the regulation of contributors to the POTW system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees and charges for the equitable distribution of costs relating to the administration, operation, maintenance, amortization of debt and depreciation of the POTW.

This ordinance shall apply to the City of Shelbyville and to persons outside the city who are, by contract or agreement with the control authority, users of the POTW. Except as otherwise provided herein; the general manager of the POTW shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the general manager may be delegated by the general manager to a duly authorized representative of the city.

(2) Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meaning hereinafter designated:

(a) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC section 1251, et seq.

(b) "Approval authority." The Tennessee Division of Water Pollution Control Director or the director's representative.

(c) "Authorized or duly authorized representative of the user."

(i) If the user is a corporation:

(A) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or

(B) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge or general permit

requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(ii) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(iii) If the user is a federal, state or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(iv) The individuals described in subsections (a) through (c), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the board.

(d) "Biochemical Oxygen Demand (BOD₅).\" The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at two hundred degrees (200°) centigrade expressed in terms of weight (lbs) and/or concentration (mg/l).

(e) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 8-1002(3)(a) and (b) [Tennessee Rule 1200-4-14-.05(1)(a) and (2)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e. management plans) of complying with, or in place of certain established categorical pretreatment standards and effluent limits.

(f) "Board." The Shelbyville Power Water and Sewerage Board.

(g) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(h) "Categorical pretreatment standard or categorical standard." Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 USC section 1317) that apply to a specific category of users and that appear in 40 CFR, chapter I, subchapter N, parts 405-471.

(i) "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or categorical standard.

(j) "Chemical Oxygen Demand (COD).\" A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(k) "Chronic violation." Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period on a rolling quarterly basis exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits.

(l) "City." City of Shelbyville.

(m) "Cooling water." The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(n) "Control authority." The term "control authority" shall refer to the general manager or a duly authorized representative of the Shelbyville Power, Water and Sewerage Board.

(o) "Conventional pollutants." Biochemical Oxygen Demand (BOD₅), Total Suspended Solids (TSS), fecal coliform bacteria, oil and grease, and pH (40 CFR 401.16).

(p) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.

(q) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(r) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(s) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential purposes only and/or restroom wastes from commercial, institutional and industrial users.

(t) "Environmental Protection Agency or EPA." The U.S. Environmental Protection Agency, or where appropriate, the regional water management division director, the regional administrator, or other duly authorized official of said agency.

(u) "Existing source." Any source of discharge that is not a "new source."

(v) "Grab sample." A sample that is collected from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

(w) "Grease interceptor." An interceptor whose rated flow exceeds fifty (50) gpm and is located outside the building.

(x) "Grease trap." An interceptor whose rated flow is fifty (50) gpm or less and is typically located inside the building.

(y) "Holding (septic) tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(z) "Indirect discharge or discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b), (c), or (d) of the Act, into the POTW (including holding tank waste discharged into the system).

(aa) "Industrial User (IU) or user." A source of non-domestic waste. Any non-domestic source discharging pollutants to the POTW.

(bb) "Individual wastewater discharge and general permit." As set forth in § 8-1005 of this chapter.

(cc) "Instantaneous maximum limit." The maximum allowable concentration of a pollutant discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(dd) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(ee) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(ff) "Local limit." Specific discharge limits developed and enforced by the board upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.05(1)(a) and (2).

(gg) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(hh) "Monthly average." The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(ii) "Monthly average limit." The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(jj) "National Pollutant Discharge Elimination System or NPDES permit." A permit issued to a POTW pursuant to section 402 of the Act.

(kk) "National pretreatment standard, pretreatment standard, or standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Federal Clean Water Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 1200-4-14-.05.

(ll) "National prohibitive discharges." Prohibitions applicable to all non-domestic dischargers regarding the introduction of pollutants into POTWs set forth in 40 CFR 403.5.

(mm) "New source." (i) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed national pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(A) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(B) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(C) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent as to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(ii) Construction on the site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of the aforementioned but otherwise alters, replaces, or adds to existing process or production equipment.

(iii) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(A) Begun, or caused to begin as part of a continuous on-site construction program:

(1) Any placement, assembly or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation or removal of existing

buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

(B) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

(nn) "Noncontact cooling water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(oo) "North American Industry Classification System (NAICS)." A classification pursuant to the North American Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 2007.

(pp) "Pass through." A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement or the city's NPDES permit, including an increase in the magnitude or duration of a violation.

(qq) "Person." Any and all persons, including individuals, partnerships, copartnerships, firms, companies, public or private corporations or officers thereof, associations, joint stock companies, trusts, estates, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities organized or existing under the laws of this or any state or country. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(rr) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution which is the measurement of acidity or alkalinity of a solution.

(ss) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharge equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).

(tt) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(uu) "Pretreatment." 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. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except as prohibited by Tennessee Rule 1200-4-14-.06(4). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with Tennessee Rule 1200-4-14-.06(5).

(vv) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard imposed on a user, including but not limited to discharge, sampling requirements, analytical requirements, reporting requirements, and compliance schedules.

(ww) "Pretreatment standards or standards." Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

(xx) "Process waste water." Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

(yy) "Process waste water pollutants." Pollutants present in process waste water.

(zz) "Prohibited discharge standards or prohibited discharges." Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 8-1002 of this chapter.

(aaa) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act (33 USC section 1292), which is owned by the Shelbyville Power, Water and Sewerage Board. This definition includes any devices or systems used in collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city, who are, by contract or agreement with the city, users of the POTW.

(bbb) "POTW treatment plant, wastewater treatment plant, or treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(ccc) "Sanitary sewer." A sewer pipeline that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of ground-storm, and surface waters that are not admitted intentionally.

(ddd) "Sanitary sewer system utility easement." A right held by one (1) person or entity to make use of the land of another for a limited purpose including laying sewer lines and ingress/egress to monitor, operate, and maintain. For the Shelbyville Sewer System, maintenance may include washing the sewer main through access points (manholes), clearing of debris such as trees, shrubs, underbrush or any type of vegetation, repair of the main or complete replacement of the main.

Types of cover allowed over a sewer line include the following: grass, pavement, sidewalks. All other items must be approved by the control authority. Under no circumstances shall any structure be allowed to be built in the easement. The standard width of the Shelbyville Sewerage System Utility Easement is twenty (20) linear feet. The easement is centered on the sewer line and manholes. The control authority has obtained easements in two (2) different ways. The first being described as an implied easement where there is no written descriptive easement or record recorded. The second is a recorded easement on a form provided by the control authority or shown on a recorded plat or descriptive easement based on bearings and distances or based on construction drawings recorded with a deed.

(eee) "Shall" is mandatory; "may" is permissive.

(fff) "Significant Industrial User (SIU)." Except as provided in subsections (iii) and (iv) of this section, a significant industrial user is:

(i) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(ii) Any other industrial user that:

(A) Discharges an average of twenty-five thousand (25,000) gallons more per day or more of process wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater) to the POTW;

(B) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(C) Is designated as such by the Shelbyville Power, Water, or Sewerage Board on the basis that it has a reasonable potential for adversely affecting the POTW's

operation or for violating any pretreatment standard or requirement (in accordance with Tennessee Code Annotated, § 1200-4-14-.08(6)(f).

(iii) The Shelbyville Power, Water and Sewerage Board may determine that an industrial user subject to categorical pretreatment standards under Tennessee Rule 1200-4-14-.06 and 40 CFR chapter I, subchapter N is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred (100) gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

(A) The industrial user, prior to the board's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

(B) The industrial user annually submits the certification statement(s) required in § 8-1007(14) [Tennessee Rule 1200-4-14-.12(17)], together with any additional information necessary to support the certification statement; and

(C) The industrial user never discharges any untreated concentrated wastewater.

(iv) Upon finding that a user meeting the criteria in subsection (ii) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the board may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f), determine that such user is not a significant industrial user.

(ggg) "Significant Noncompliance (SNC)." Any violation of pretreatment requirements which meet one (1) or more of the following criteria:

(i) Violations of wastewater discharge limits:

(A) Chronic violations;

(B) Technical Review Criteria (TRC) violations;

(C) Any other violation(s) of an industrial wastewater discharge permit or general permit effluent limit that the control authority believes has caused, alone or in combination with other discharges, interferences (e.g., slug loads) or pass through; or endangered the health of the POTW personnel or the public; or

(D) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(ii) Violations of compliance schedule milestones, contained in an enforcement order by ninety (90) days or more after the schedule date. Milestones may include but not be limited to dates for starting construction, completing construction and attaining final compliance.

(iii) Failure to provide reports for compliance schedules, self-monitoring data or categorical standards (baseline monitoring reports, ninety (90) day compliance reports and periodic reports) within thirty (30) days from the due date.

(iv) Failure to accurately report noncompliance.

(v) Violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

(hhh) "Significant violation." A violation which remains uncorrected forty-five (45) days after notification of noncompliance; which is part of a pattern of noncompliance over a twelve (12) month period; or which involves a failure to accurately report noncompliance; or which resulted in the POTW exercising its emergency authority under CFR 403.8(f)(2)(vi)(B) and 403.8(f)(2)(vii).

(iii) "Slug load" or "slug discharge." Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 8-1002 of this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

(jjj) "Source." Any activity, operation, construction, building, structure, facility, or installation (permanent or temporary) from which there is or may be the discharge or pollutants.

(kkk) "State." State of Tennessee.

(lll) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(mmm) "Surcharge." A fee charged to industrial users in excess of the normal sewer user charge to cover the additional expenses incurred by the POTW for treating conventional pollutants of a higher concentration than the POTW treatment plant was designed to treat.

(nnn) "Technical Review Criteria (TRC) violation." Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken

for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by subsection (2) of this section, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other parameters except pH).

(ooo) "Total suspended solids or suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(ppp) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of section 307(a) of the Act (40 CFR 403 Appendix B).

(qqq) "Upset." An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(rrr) "User or industrial user." Any person(s), who contributes, causes or permits the contribution of wastewater into the city's POTW, including the owner of any private property having a building sewer connected to the POTW sewer system.

(sss) "Wastewater." The liquid and water-carried industrial or domestic wastes from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(ttt) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state of any portion thereof.

(3) Abbreviations. The following abbreviations shall have the designated meanings:

BOD ₅	Biochemical Oxygen Demand 5-day
BMP	Best Management Practice
BMR	Baseline Monitoring Report
CFR	<u>Code of Federal Regulations</u>
CIU	Categorical Industrial User

COD	Chemical Oxygen Demand
EPA	U.S. Environmental Protection Agency
FOG	Fats, Oil and Grease
gpd	Gallons per day
IU	Industrial User
l	Liter
lb	Pounds
mg	Milligrams
mg/l	Milligrams per liter
NAICS	North American Industry Classification System
NH ₃ -N	Ammonia nitrogen
NPDES	National Pollutant Discharge Elimination System
NSCIU	Non-Significant Categorical Industrial User
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIU	Significant Industrial User
SNC	Significant Noncompliance
SWDA	Solid Waste Disposal Act, 42 USC 6901, <u>et. seq.</u>
TSS	Total Suspended Solids
USC	United States Code

(Ord. #528, Sept. 1995, as replaced by Ord. #706, Jan. 2003, Ord. #758, Dec. 2004, and Ord. #863, Nov. 2008, and amended by Ord. #891, Dec. 2010)

8-1002. General sewer use requirements. (1) Use of public sewers. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City of Shelbyville, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.

It shall be unlawful to discharge any wastewater to any waters of the state within the city or in any area under the jurisdiction of the city.

Except as hereinafter 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 wastewater within the City of Shelbyville.

The owners of all houses, building or properties used for human occupancy, employment, recreation, or other purposes, situated within the City of Shelbyville, and abutting any street, alley, or right-of-way, or sanitary sewer system utility easement in which there is now located or may in the future be located a public sanitary sewer of the POTW, is hereby required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper sanitary sewer by means of a building sewer in accordance with the provisions of this ordinance within sixty (60) days after official notice to do so. Such connection shall be made at the place and in the manner as directed by the control authority.

Where a POTW sanitary sewer is not available up to or even with the property line, the building sewer shall be connected to a private subsurface sewage disposal system complying with the provisions of this ordinance and the Tennessee Department of Environment and Conservation, and Amended Rules, Regulations to Govern Subsurface Sewage Disposal Systems.

The owner of any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation necessary to obtain a grade equivalent to one-eighth inch (1/8") per foot in the building sewer, but is otherwise accessible to a public sewer as provided in subsection (1) of this section shall provide a private sewage pumping station (grinder pump) to convey wastewater into the POTW sanitary sewer.

(2) Building sewer and connections. (a) General. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any POTW sanitary sewer or appurtenance thereof without first obtaining a written permit from the control authority.

All cost and expense incidental to the installation and connection of the building sewer to the POTW sanitary sewer shall be borne by the user. The user shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

A separate and independent building sewer shall be provided for every building; except that where one (1) building stands at the rear of another on an interior lot and no building 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 (1) building sewer.

Old building sewers may be used in connection with new buildings only when they are found, on examination and testing by the general manager, meeting all requirements of this ordinance. All others must be sealed to the specifications of the general manager.

(b) Building sewer construction. Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be six inches (6") for commercial and four inches (4") for residential.

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Six inch (6") building sewers shall be laid on a grade equal to or greater than one-eighth inch (1/8") per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.

(iv) Slope and alignment of all building sewers shall maintain constant horizontal alignment and vertical grade, except at bends.

(v) Building sewers shall be constructed only of:

(A) Cast iron soil pipe or ductile iron pipe with compression joints; or

(B) Polyvinyl chloride pipe with rubber compression joints. Under no circumstances will cement mortar joints be acceptable.

(vi) Cleanouts shall be located on building sewers as follows: one (1) located no closer than eighteen inches (18") to the building and no more than five feet (5') outside the building, one (1) at the tap onto the POTW sanitary sewer if the main is on the user side of the street, if the main is on the opposite side of street the cleanout shall be placed on the right-of-way of the user's property and one (1) at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4") on a six inch (6") pipe.

(vii) Connections of building sewers to POTW sanitary sewer shall be made at the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sewer and installing a tee-saddle or tee-insert of a type approved by the control authority. 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 POTW sanitary sewer is at a grade of one-eighth inch (1/8") 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 user. In all buildings in which any building drain is too low to permit gravity flow to the POTW sanitary sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner/user.

(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 control authority before installation.

(x) Any installed building sewer shall be gastight and watertight.

(xi) 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 control authority.

(xii) No person shall make connection of roof downspouts, exterior foundation drains, area drains, basement drains or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a POTW sanitary sewer.

(c) Inspection of connections. (i) The connection to the POTW sanitary sewer and all building sewers from the building to the POTW sanitary sewer shall be inspected by the general manager before the underground portion is covered.

(ii) The applicant for discharge shall notify the control authority when the building sewer is ready for inspection and connection to the POTW sanitary sewer. The connection shall be made under the supervision of the general manager.

(d) Maintenance of building sewers. Each user shall be entirely responsible for the maintenance of the building sewer located on private property to insure that the building sewer is watertight. This maintenance will include repair or replacement of the building sewer as deemed necessary by the control authority to meet specifications of the city. If, upon smoke testing or visual inspection by the general manager, roof downspout connections, exterior foundation drains, or other sources of rainwater, surface runoff or groundwater entry into the POTW sewer system are identified on building sewers on private property, the control authority may take any of the following actions:

(i) Notify the user in writing of the nature of the problem(s) identified on the user's building sewer and the specific steps required to bring the building sewer within the requirements of this ordinance. All steps necessary to comply with this ordinance

must be complete within sixty (60) days from the date of the written notice and entirely at the expense of the user.

(ii) Notify the user in writing of the nature of the problem(s) identified on the user's building sewer and inform the user that the city will provide all labor, equipment and materials necessary to make the repairs required to bring the building sewer within the requirements of this ordinance. The work on private property will be performed at the city's convenience and the cost of all materials, labor and equipment used will be charged to the user. The city will be responsible for bringing any excavations back to original grade, replacing topsoil and hand raking all disturbed areas; however, the user shall be responsible for final landscaping, including but not limited to seeding, fertilizing, watering, mulching, sodding and replacing any shrubbery or trees displaced or damaged by the city during the execution of the work.

(3) Prohibited discharge standards. (a) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not the user is subject to categorical pretreatments standards or any other national, state or local pretreatment standards or requirements.

(b) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

(i) 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 not time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the POTW 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 or have a closed-cup flashpoint of less than one hundred forty degrees (140°) F (sixty degrees (60°) C) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides and any other substance which the city, the state, or EPA has notified the user is a fire hazard or a hazard to the system.

(ii) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not

limited to: grease garbage with particles greater than one-half inch (1/2") or one and twenty-seven hundredths (1.27) centimeters in any dimension, animal guts or tissues, 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, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing waxes.

(iii) Any wastewater having a pH less than five (5) or wastewater having any other corrosive property (such as pH over ten (10)) capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(iv) Any wastewater containing toxic pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(v) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life (acute worker health and safety problems) or are sufficient to prevent entry into the sewers for maintenance and repair.

(vi) 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 noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(vii) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test.

(viii) Any wastewater with objectionable color which causes discoloration of the POTW treatment plant effluent to the extent that the NPDES permit is violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(ix) Any wastewater heat in amounts which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case heat in such quantities that the

temperature at the POTW exceeds forty degrees (40°) C (one hundred four degrees (104°) F).

(x) Any pollutants, including oxygen demanding pollutants, such as BOD₅, NH₃-N, and oil and grease, released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference to the POTW. In no case shall a discharge to the POTW have a flow rate or contain concentrations or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(xi) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the control authority in compliance with applicable state or federal regulations.

(xii) Any wastewater which causes a hazard to human life or creates a public nuisance.

(xiii) Any wastewater containing fats, wax, grease, petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin, or other substances which may solidify or become viscous at temperatures between zero degrees (0°) C (thirty-two degrees (32°) F) and forty degrees (40°) C (one hundred four degrees (104°) F) and/or cause interference or pass through at the POTW treatment plant.

(xiv) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters. Stormwater and all other unpolluted drainage shall be discharged to storm sewers, or to a natural outlet approved by the control authority and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the control authority and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(xv) Any trucked or hauled pollutants except at discharge points designated by the POTW in accordance with § 8-1003(4) of this chapter.

(xvi) Fats, oils, and grease, waste food, and sand. Refer to § 8-1002(4) for guidelines.

When the control authority determines that a user is contributing to the POTW any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the control authority shall:

(a) Advise the user of the impact of the contribution on the POTW; and

(b) Develop effluent limitation(s) for such user to correct the interference with the POTW.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(4) Fats, oils, and grease, waste food, and sand guidelines. Fats, oil, grease, waste food, and sand in the POTW can interfere with the collection system and wastewater treatment facility by causing blockages and plugging of pipelines, problems with normal operation of pumps and their controls, and contribute waste of a strength or form that is beyond the treatment capability of the treatment plant.

(a) Interceptors. Fats, Oil, and Grease (FOG), waste food, and sand interceptors shall be installed when, in the opinion of the control authority, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amounts which impact the POTW. Such interceptors shall not be required of single-family residences, but may be required for multiple-family residences. All interceptors shall be of a type and capacity approved by the control authority, and shall be located as to be readily and easily accessible for cleaning and inspection.

(i) Fats, oil, grease, and food waste.

(A) New food service facility. On or after the effective date of this ordinance, food service facilities which are newly proposed or constructed, shall be required to install, operate and maintain a grease interceptor with a minimum capacity of seven hundred fifty (750) gallons located on the exterior of the building. Approval of the installation of a grease trap instead of a grease interceptor at a new food service facility can be obtained for those facilities where inadequate space is available for the installation of a grease interceptor. Design criteria shall conform to the standard in accordance with any provisions of the plumbing code as adopted by the City of Shelbyville and Tennessee Department of Environment and Conservation engineering standards or applicable local guidelines.

(B) Existing food service facilities. On or after the effective date of this ordinance, existing food service facilities or food service facilities which will be expanded or renovated shall install a grease trap or grease interceptor when, in the opinion of the control authority, necessary for the control of FOG and food waste. Upon notification, the facility must be in compliance within ninety (90) days

(unless due case of hardship may be proven). The facility must service and maintain the equipment in order to prevent adverse impact upon the POTW. If in the opinion of the control authority the user continues to impact the POTW, additional pretreatment measures may be required.

(ii) Sand, soil, and oil. All car washes, truck washes, garages, service stations, and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors when directed by the control authority. These interceptors shall be sized to effectively remove sand, soil, and oil at the proper flow rates. These interceptors shall be cleaned on a regular basis to prevent impact upon the POTW. Owners whose interceptors are deemed to be ineffective by the control authority may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities shall prevent the inflow of rainwater into the sanitary sewer.

(iii) Laundries. Where directed by the control authority commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the POTW of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the POTW.

The equipment or facilities installed to control FOG, food waste, sand, and soil shall be designed in accordance with the plumbing code and Tennessee Department of Environment and Conservation engineering standards or applicable local guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance and inspection. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the POTW. If the control authority is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, or lack thereof, the owner or operator shall be required to refund the labor, equipment, materials and overhead costs to the control authority. Nothing in this section shall be construed to prohibit or restrict any other remedy the control authority has under this ordinance, or state or federal law.

The control authority retains the right to inspect and approve installation of the control equipment.

There shall be no charge for random inspections conducted by the control authority personnel on traps or interceptors. If a trap or interceptor has to be re-inspected because of deficiencies found during the previous inspection by the control authority personnel, and all of the

deficiencies have been corrected, there shall be no charge for the reinspection. If all of the deficiencies have not been corrected, a first re-inspection fee of fifty dollars (\$50.00) shall be charged to the facility. If a second re-inspection is required, a second reinspection fee of one hundred fifty dollars (\$150.00) shall be charged to the facility if all of the deficiencies have still not been corrected. If three (3) or more re-inspections are required, a re-inspection fee of three hundred dollars (\$300.00) for each successive re-inspection shall be charged to the facility in addition to other enforcement actions if all of the deficiencies have not been corrected.

(b) Solvents. The use of degreasing or line cleaning products containing petroleum-based solvents is prohibited.

(5) National categorical pretreatment standards. Users must comply with the categorical pretreatment standards for new and existing sources set out in 40 CFR chapter I, subchapter N, parts 405-471 and shall serve as the minimum requirements.

(a) Where a categorical pretreatment standard is expressed in terms of either the mass or the concentration of a pollutant in wastewater, the control authority may impose equivalent concentration or mass limits in accordance with § 8-1002(5)(e) and (f) as allowed at 40 CFR 403.6(c).

(b) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to the individual industrial users as allowed at 40 CFR 403.6(c)(2).

(c) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the control authority shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).

(d) A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with the following subsections of this section as allowed at 40 CFR 403.15.

(i) Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water in accordance with this section. Any industrial user wishing to obtain credit for intake pollutants must make application to the city. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e. adjusted to reflect credit for pollutants in the intake water) if the requirements of subsection (ii) of this section are met.

(ii) Criteria. (A) Either:

(1) The applicable categorical pretreatment standards contained in 40 CFR, chapter I, subchapter N specifically provide that they shall be applied on a net basis; or

(2) The industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in absence of pollutants in the intake waters.

(B) Credit for generic pollutants such as Biochemical Oxygen Demand (BOD₅), Total Suspended Solids (TSS), and oil and grease shall not be granted unless the industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

(C) Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring (at the person's, applying for credit, expense) may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.

(D) Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The board may waive this requirement if it finds that no environmental degradation will result.

(e) When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the board convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the control authority. The board may establish equivalent mass limits only if the industrial user meets all the conditions set forth in subsections (5)(e)(i)(A) through (E) below.

(i) To be eligible for equivalent mass limits, the industrial user must:

(A) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge or general permit;

(B) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;

(C) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

(D) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and

(E) Have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

(ii) An industrial user subject to equivalent mass limits must:

(A) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(B) Continue to record the facility's flow rates through the use of a continuous flow monitoring device;

(C) Continue to record the facility's production rates and notify the control authority whenever production rates are expected to vary by more than twenty percent (20%) from its baseline production rates determined in subsection (5)(e)(i)(C) of this section. Upon notification of a revised production rate, the control authority will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(D) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subsection (5)(e)(i)(A) of this section as long as it discharges under an equivalent mass limit.

(iii) When developing equivalent mass limits, the control authority:

(A) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average

standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;

(B) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(C) May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to subsection (10). The industrial user must also be in compliance with § 8-1013(3) regarding the prohibition of bypass.

(D) The control authority may convert the mass limits of the categorical pretreatment standards of 40 CFR parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the control authority. When converting such limits, the control authority will use the concentrations listed in the applicable subparts of 40 CFR parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited in § 8-1002(10) of this chapter (see 40 CFR 403.6(d)). In addition, the control authority will document how the equivalent limits were derived for any changes from concentration to mass limits, or vice versa, and make this information publicly available (see 40 CFR 403.6(c)(7)).

(E) Once included in its permit, the industrial user must comply with the equivalent limitations developed in this § 8-1002(5) in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(F) Many categorical pretreatment standards specify one (1) limit for calculating maximum daily discharge limitations and a second for calculating monthly average, or four (4) day average, limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(G) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the control authority within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the control authority of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

(6) Modification of national pretreatment standards. If the POTW system achieves consistent removal of pollutants limited by the national pretreatment standards, the board may apply to the approval authority for modifications of specific limits in the national pretreatment standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the POTW system to a less toxic or harmless state in the effluent which is achieved by the system in ninety-five percent (95%) of the samples taken when measured according to the procedures set forth in 40 CFR section 403.7(a)(3)(ii) part 403 - General Pretreatment Regulations for Existing and New Sources of Pollution, promulgated pursuant to the Act. The city may then modify pollutant discharge limits in the national pretreatment standards if the requirements continued in 40 CFR, part 403, section 403.7, are fulfilled and approval is obtained from the approval authority.

(7) State pretreatment standards. Users must comply with Tennessee Pretreatment Standards codified at Tennessee Code Annotated, §§ 69-3-101, et seq. and 4-5-201, et seq.

(8) Local limits. (a) The control authority is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14-.05(3).

(b) Specific pollutant limitations. Pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the limits for each pollutant. Refer to Appendix A (latest revision), Table A1: Specific Pollutant Limitations for a list of the specific pollutants and respective concentrations.

(c) Criteria to protect the POTW treatment plant influent. The general manager and/or his designated representative shall monitor the POTW treatment plant influent for each parameter in Table A2: Criteria to Protect the POTW Treatment Plant Influent contained in Appendix A (latest revision). Analyses for all pollutants listed at Table A2 shall be conducted in accordance with the requirements of 40 CFR part 136 or equivalent methods approved by the United States Environmental Protection Agency. All industrial users shall be subject to the reporting and monitoring requirements set forth in § 8-1007, Reporting Requirements, and § 8-1008, Compliance Monitoring, as to these

parameters. In the event that the influent at the POTW treatment plant reaches or exceeds the levels established by said table, the control authority shall initiate technical studies to determine the cause of the influent violation, and shall recommend to the Shelbyville Power, Water and Sewerage Board such remedial measures as are necessary, including, but not limited to recommending the establishment of new or revised pretreatment levels for these parameters. The control authority shall also recommend changes to any of these criteria in the event the POTW effluent standards are changed or in the event that there are changes in any applicable law or regulation affecting same or in the event changes are needed for more effective operation of the POTW.

(d) Conventional pollutants. (i) BOD₅, TSS and NH₃-N. The POTW treatment plant was designed to accommodate specific waste load concentrations and mass amounts of Biochemical Oxygen Demand (BOD₅), Total Suspended Solids (TSS), and Ammonia Nitrogen (NH₃-N). If an industrial user discharges concentrations of these pollutants in excess of the criteria to protect the POTW treatment plant influent listing at Table A2 in the appendix (latest revision) of this ordinance, added operation and maintenance costs will be incurred by the POTW. Therefore, any industrial user who discharges concentrations in excess of the criteria to protect the POTW treatment plant influent listed at Table A2 in the appendix (latest revision) of this ordinance for any of the conventional pollutants such as BOD₅, TSS, and/or NH₃-N will be subject to a surcharge. The formula for this surcharge is listed in § 8-1004(3) of this chapter. The board also reserves the right to, at any time, place specific mass or concentration limits for BOD₅, TSS and/or NH₃-N on the industrial user if the industrial user's discharge of the excessive strength wastewater causes the POTW treatment plant to violate its NPDES permit.

(ii) Oil and grease. Oil and grease loadings were not taken into account in the design of the POTW treatment plant; however, oil and grease are regulated under this ordinance as conventional pollutants.

If an industrial user discharges concentrations of total oil and grease in excess of the criteria to protect the POTW treatment plant influent listed in § 8-1002(7)(c) of this chapter for total oil and grease, added operation and maintenance cost will be incurred by the POTW. Therefore, any industrial user who discharges concentrations in excess of the criteria to protect the POTW treatment plant influent listed in § 8-1002(7)(c) for total oil and grease will be subject to a surcharge. The formula for this surcharge is listed in § 8-1004(3) of this chapter. The board also reserves the right to, at any time, place specific mass or

concentration limits for total oil and grease on the industrial user if the industrial user's discharge of the excessive strength wastewater causes the POTW treatment plant to violate its NPDES permit.

(e) The control authority and/or his designated representative may develop Best Management Practices (BMPs), in individual wastewater discharge permits or in general permits, to implement local limits and the requirements of § 8-1002(3).

(9) Board's right of revision. The board reserves the right to petition the City of Shelbyville to establish, by ordinance or in individual wastewater discharge permits or in general permits, more stringent standards or requirements on users of the POTW system if deemed necessary to comply with the objectives presented in this ordinance.

(10) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The control authority and/or his designated representative may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

(11) Accidental discharges. (a) Protection from accidental discharge. Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the industrial user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the control authority for review, and shall be approved by the control authority before construction of the facility. No industrial user who commences contribution to the POTW after the effective date of this ordinance shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the control authority. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the industrial user's facility as necessary to meet the requirements of this ordinance.

(b) Notification of accidental discharge. In the case of an accidental discharge, it is the responsibility of the industrial user to immediately telephone and notify the POTW of the incident. The notification shall be within twenty-four (24) hours of becoming aware of the violation and shall include location of discharge, type of waste, concentration and volume, and corrective actions. The industrial user shall repeat the sample within five (5) days, perform an analysis, and

report the results of the sample analysis to the control authority within thirty (30) days of becoming aware of the violation [(40 CFR 403.12)(g)].

(i) Written notice. Within five (5) days following an accidental discharge, the industrial user shall submit to the control authority a detailed written report describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance or other applicable law.

(ii) Notice to employees. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous accidental discharge. Industrial users shall insure that all employees who may cause such a dangerous discharge to occur or may suffer such are advised of the emergency notification procedure. (Ord. #528, Sept. 1995, as replaced by Ord. #706, Jan. 2003, Ord. #758, Dec. 2004, and Ord. #863, Nov. 2008, and amended by Ord. #869, April 2009)

8-1003. Pretreatment of wastewater. (1) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 8-1002 of this chapter within the time limitations specified by EPA, the state, or the control authority and/or his designated representative, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the control authority for review, and shall be acceptable to the control authority before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the board under the provisions of this ordinance.

(2) Additional pretreatment measures. (a) Whenever deemed necessary, the control authority and/or his designated representative may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.

(b) The control authority may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit or a general permit may be solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the control authority and/or his designated representative, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the control authority and/or his designated representative, shall comply with § 8-1002(4) of this chapter, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with § 8-1002(4) by the user at their expense.

(d) Users with potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(3) Accidental discharge/slug discharge control plans. The control authority shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The control authority may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the control authority may develop such a plan for any user at the user's expense. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals (which shall include cleaning supplies);

(c) Procedures for immediately notifying the control authority of any accidental or slug discharge, as required by § 8-1007(6) of this chapter; and

(d) Procedures to prevent adverse impact from any incidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling, and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic pollutants, including solvents, and/or measures and equipment for emergency response.

(4) Hauled wastewater. (a) Septic tank waste may be introduced into the POTW only at locations designated by the control authority, and as such times as established by the control authority and/or his designated representative. Such waste shall not violate § 8-1002 of this chapter or

any other requirements established by the board. The control authority may require septic tank haulers to obtain individual wastewater discharge permits or general permit.

(b) The control authority may require haulers of industrial waste to obtain individual wastewater discharge permits or general permits. The control authority may require generators of hauled industrial waste to obtain individual wastewater discharge permits or general permits. The control authority may also prohibit disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

(c) Industrial waste haulers may discharge loads only at locations designated by the control authority and/or his designated representative. No load may be discharged without prior consent of the control authority and/or his designated representative. The control authority and/or his designated representative may collect samples of each hauled load to ensure compliance with applicable standards. The control authority and/or his designated representative may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (Ord. #528, Sept. 1995, as replaced by Ord. #706, Jan. 2003, Ord. #758, Dec. 2004, and Ord. #863, Nov. 2008)

8-1004. Fees. (1) Purpose. It is the purpose of this chapter to provide for the recovery of costs from users of the board's wastewater disposal system for the administration, operation, maintenance, amortization of debt, and depreciation of the POTW. The applicable charges or fees are set forth by the board's schedule of charges and fees.

(2) Charges and fees. The board may adopt charges and fees which may include:

(a) Fees for reimbursement of costs of setting up and operating the POTW's pretreatment program;

(b) Fees for monitoring, inspections and surveillance procedures associated with industrial users;

(c) Fees for reviewing accidental/slug discharge procedures/control plans and construction plans and specifications for industrial users;

(d) Fees for permit applications;

(e) Fees for FOG plan submittals;

- (f) Fees for inspection of building sewer connections;
- (g) Fees for cleaning/removing stoppages from FOG, sand, soil, oil, and laundry interceptors;
- (h) Fees for filing appeals of enforcement actions taken by the board;
- (i) Fees for treating conventional pollutants discharged to the POTW by industrial users with strengths in excess of the design capacity of the POTW treatment plant for individual conventional pollutants;
- (j) Charges to users for recovery of costs associated with normal operation, maintenance, administration, amortization of debt and depreciation of the POTW;
- (k) Other fees as the board may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this ordinance and are separate from all other fees chargeable by the board.

(3) Surcharge fees. If an industrial user discharges in excess of the criteria to protect the POTW treatment plant influent set out for the conventional pollutants BOD₅, TSS, NH₃-N, and/or oil and grease in Table A2 of Appendix A (latest revision), additional operation and maintenance costs will be incurred by the Shelbyville Power, Water and Sewerage Board. Therefore, any user who discharges in excess of the limits for any of these parameters will be subject to a surcharge. Surcharges shall be in addition to normal user fees. The formula for this surcharge is listed below.

$$\left\{ \begin{array}{l} \text{Base Sewer Bill for} \\ \text{Monthly Usage} \end{array} \right\} \times \frac{\text{Actual Average BOD} \\ \text{Concentration (mg/L)}}{350 \text{ mg/L}} \left\{ \begin{array}{l} \text{ } \\ \text{ } \end{array} \right\} - \text{Base Sewer Bill for} \\ \text{Monthly Usage}$$

As an alternate to this formula, the Shelbyville Power, Water and Sewerage Board may calculate surcharge fees based on actual cost caused by the discharge of excessive strength conventional pollutants. The Shelbyville Power, Water and Sewerage Board also reserves the right to, at any time, place limits which may not be exceeded on the industrial user's discharge if the industrial user's discharge of the excessive strength wastewater cause to the POTW treatment plant to violate its NPDES permit. (Ord. #528, Sept. 1995, as replaced by Ord. #706, Jan. 2003, Ord. #758, Dec. 2004, and Ord. #863, Nov. 2008)

8-1005. Individual wastewater discharge permits and general permits.

(1) Wastewater analysis. When requested by the control authority and/or his designated representative, a user must submit information on the nature and characteristics of its wastewater within fifteen (15) days of the request. The control authority or his designated representative is authorized to prepare a form for this purpose and may periodically require users to update this information.

There shall be two (2) classes of building sewer permits:

(a) For connection of residential, commercial and institutional users to the POTW; and

(b) For connection of industrial users to the POTW.

In either case, the owner of the facility or residence wishing to connect a building sewer to the POTW or his agent shall make application on a special form furnished by the Shelbyville Power, Water and Sewerage Board. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the control authority. A permit and inspection fee shall be paid to the Shelbyville Power, Water and Sewerage Board at the time the application is filed as set out in the Shelbyville Power, Water and Sewerage Board's schedule of charges and fees.

(2) Individual wastewater discharge permit and general permit requirement. (a) No significant industrial user shall discharge wastewater to the POTW without first obtaining an individual wastewater discharge permit or general permit from the control authority, except that a significant industrial user that has filed a timely application pursuant to subsection (3) of this section may continue to discharge for the time period specified therein.

(b) The control authority may require other users to obtain individual wastewater discharge permits or general permits as necessary to carry out the purposes of this ordinance.

(c) Any violation of the terms and conditions of an individual wastewater discharge permit or general permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in §§ 8-1010 through 8-1012 of this chapter. Obtaining an individual wastewater discharge permit or general permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements with any other requirements of federal, state, and local law.

(3) Individual wastewater discharge and general permitting: existing connections. Any user required to obtain an individual wastewater discharge permit or general permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the control authority for an individual wastewater discharge permit or general permit in accordance with § 8-1005(5) of this chapter, and shall not cause or

allow discharges to the POTW to continue after forty-five (45) days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit or general permit issued by the control authority.

(4) Individual wastewater discharge and general permitting; new connections. Any user required to obtain an individual wastewater discharge permit or general permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit or general permit, in accordance with subsection (5) of this section, must be filed ninety (90) days prior to the date upon which any discharge will begin or recommence.

(5) Individual wastewater discharge and general permit application contents. (a) General. All users required to obtain an individual wastewater discharge permit or general permit must submit a permit application. The control authority may require users to submit all or some of the following information as part of the permit application:

(i) Identifying information.

(A) The name, address, and location of the facility, including the name of the operator and owner;

(B) Contact information, description of activities, facilities, and plant production processes on the premises.

(ii) Environmental permits. A list of any environmental control permits held by or for the facility.

(iii) Description of operations.

(A) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications (SIC or NAICS code) of the operation(s) carried out by such user. This description shall include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;

(B) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(C) Number of employees, shifts, contact per shift (if applicable), hours of operation, and proposed or actual hours of operation;

(D) Type and amount of raw materials processed (average and maximum per day);

(E) Each product produced by type, amount process or processes and rate of production;

(F) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains,

and appurtenances by size, location, and elevation, and all points of discharge.

(iv) Time and duration of discharges.

(v) The location for monitoring all wastes covered by this permit.

(vi) Flow measurement. Information showing the measured average daily, maximum daily flow, and thirty (30) minute peak flow in gallons per day, (including daily, monthly and seasonal variations, if any) to the POTW from regulated process streams and other streams, as necessary to allow use of the combined wastestream formula set out in § 8-1002(5)(c) (Tennessee Rule 1200-4-14-.06(5)).

(vii) Measurement of pollutants.

(A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) Wastewater constituents and characteristics (nature and concentration, and/or mass) in the discharge from each regulated process including but not limited to those mentioned in § 8-1002 and Appendix A of this chapter as determined by a reliable analytical laboratory; sampling and analyses shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, part 136, as amended.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 8-1007(10) of this chapter. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard.

(E) Sampling must be performed in accordance with procedures set out in § 8-1007(11) of this chapter.

(F) Where known, the nature and concentration of any pollutants in the discharge which are limited by any local, state or national pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional Operation and Maintenance (O&M)

and/or additional pretreatment is required for the industrial user to meet applicable pretreatment standards.

(viii) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on § 8-1007(4)(b) [2300-4-14-.12(5)(b)].

(ix) Statement of duly authorized representative(s). Wastewater constituents and characteristics including but not limited to those mentioned in § 8-1002 of this chapter as determined by a reliable analytical laboratory; sampling and analyses shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, part 136, as amended.

(x) Any other information as may be deemed necessary by the control authority to evaluate the permit application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(6) Wastewater discharge permitting: general permits. (a) At the discretion of the control authority, the control authority may use general permits to control SIU discharges to the POTW if the following condition are met. All facilities to be covered by a general permit must:

(i) Involve the same or substantially similar types of operations;

(ii) Discharge the same types of wastes;

(iii) Require the same effluent limitations;

(iv) Require the same or similar monitoring; and

(v) In the opinion of the control authority, are more appropriately controlled under a general permit than under individual wastewater discharge permits.

(b) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with § 8-1007(4)(b) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the control authority has provided written notice to the SIU that such a waiver request has been granted in accordance with § 8-1007(4)(b).

(c) The control authority will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in § 8-1005(6)(a)(i)--(v) and applicable

state regulations, and a copy of the user's written request for coverage for three (3) years after the expiration of the general permit.

(d) The control authority may not control an SIU through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the combined wastestream formula (§ 8-1002(5)(c)) or net/gross calculations (§ 8-1002(5)(d)).

(7) Application signatories and certifications. (a) All wastewater discharge permit applications, user reports and certification statements must be signed by a duly authorized representative or the user and contain the certification statement in § 8-1007(14)(a).

(b) If the designation of a duly authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the control authority prior to or together with any reports to be signed by a duly authorized representative.

(c) A facility determined to be a non-significant categorical industrial user by the control authority pursuant to § 8-1001(2)(fff)(iii) must annually submit the signed certification statement in § 8-1007(14)(b).

(8) Individual wastewater discharge and general permit decisions. The control authority will evaluate the data furnished by the user and may require additional information. If sufficient data was not received to determine an industry's category, the control authority may submit a category determination request to the approval authority as set out in Tennessee Rule 1200-4-14.06(1). After evaluation and acceptance of the data furnished, the control authority will determine whether to issue an individual wastewater discharge permit or a general permit. The control authority may deny any application for an individual wastewater discharge permit or a general permit. (Ord. #528, Sept. 1995, as replaced by Ord. #706, Jan. 2003, Ord. #758, Dec. 2004, and Ord. #863, Nov. 2008)

8-1006. Individual wastewater discharge and general permit issuance.

(1) Individual wastewater discharge and general permit duration. An individual wastewater discharge permit or a general permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A permit may be issued for less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modifications as limitations or requirements are modified or other just cause exists. The user shall be informed

of any proposed changes in his permit at least thirty (30) days prior to the effective date of change unless this allows federal due dates to be violated. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. Each individual wastewater discharge permit or general permit will indicate a specific date upon which it will expire.

(2) Individual wastewater discharge and general permit contents. An individual wastewater discharge permit or a general permit shall include such conditions as are deemed reasonably necessary by the control authority and/or his designated representative to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW. Individual wastewater discharge permits or general permits shall be expressly subject to all provisions of this ordinance and all other applicable regulation, charges and fees established by the Shelbyville Power, Water and Sewerage Board.

(a) Individual wastewater discharge permits or general permits shall contain:

(i) Statement that indicates the wastewater discharge permit issuance date, expiration date, and effective date;

(ii) Statement that the wastewater discharge permit is nontransferable without prior notification to the board in accordance with subsection (4) of this section, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(iii) Effluent limits, including best management practices, based on applicable pretreatment standards;

(iv) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, frequency of sampling, and sample type based on federal, state, and local law;

(v) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge according to § 8-1007(4)(b);

(vi) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by federal, state, or local law;

(vii) Requirements to control slug discharge, if determined by the control authority to be necessary;

(viii) Any grant of the monitoring waiver by the control authority (§ 8-1007(4)(b)) must be included as a condition in the user's permit;

(ix) Requirements for notification of the control authority of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW;

(x) Requirements for notification of excessive discharges such as described in § 8-1002(10) of this chapter;

(xi) Requirement to immediately report any noncompliance to the control authority, and to immediately resample for parameter out of compliance in accordance with 40 CFR 403.12(g).

(b) Individual wastewater discharge permits or general permits may contain, but need not be limited to, the following conditions:

(i) Limits on average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulations and equalization;

(ii) Requirements for installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(vii) A statement that compliance with the individual wastewater discharge permit or general permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit or the general permit; and

(viii) Other conditions as deemed appropriate by the control authority to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.

(3) Permit modifications. The control authority may modify an individual wastewater discharge permit or a general permit for good cause, including, but not limited to, the following reasons:

- (a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit or the general permit issuance;
- (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (d) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;
- (e) Violation of any terms or conditions of the individual wastewater discharge permit or the general permit;
- (f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (g) Revision of a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 1200-4-14-.13;
- (h) To correct typographical or other errors in the individual wastewater discharge permit or the general permit; or
- (i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with subsection (4) of this section.

(4) Individual wastewater discharge and general permit transfer.

Individual wastewater discharge and general permits are issued to a specific user for a specific operation. An individual wastewater discharge permit or a general permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without prior notice and approval of the control authority, and provision of a copy of the existing control mechanism (SIU permit) to the new owner or operator. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The notice to the control authority must include a written certification by the new owner or operator which:

- (a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (b) Identifies the specific date on which the transfer is to occur;
- (c) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit or the existing general permit; and
- (d) Submits a duly authorized to sign.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit or the general permit void as of the date of facility transfer.

(5) Individual wastewater discharge and general permit revocation.

The control authority may revoke an individual wastewater discharge permit or

a general permit for good cause, including, but not limited to, the following reasons:

- (a) Failure to notify the control authority of significant changes to the wastewater prior to the changed discharge;
- (b) Failure to provide prior notification to the control authority of changed conditions pursuant to § 8-1007(5) of this chapter;
- (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (d) Falsifying self-monitoring reports and certification statements;
- (e) Tampering with monitoring equipment;
- (f) Refusing to allow the control authority timely access to the facility premises and records;
- (g) Failure to meet effluent limitations;
- (h) Failure to pay fines;
- (i) Failure to pay sewer charges;
- (j) Failure to meet compliance schedules;
- (k) Failure to complete a wastewater surveyor the wastewater discharge permit application;
- (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (m) Violation of any pretreatment standard or requirement, or any terms of the individual wastewater discharge permit, the general permit, or this ordinance.

Individual wastewater discharge and general permits shall be subject to void upon cessation of operations or transfer of business ownership. All individual wastewater discharge and general permits issued to a user are void upon the issuance of a new individual wastewater discharge or general permit to that user.

(6) Individual wastewater discharge and general permit reissuance. A user with an expiring individual discharge or general permit shall apply for permit reissuance by submitting a complete permit application in accordance with § 8-1005(5) of this chapter, a minimum of ninety (90) days prior to the expiration of the user's existing individual wastewater discharge or general permit. The terms and conditions of the permit may be subject to modification by the control authority during the term of the permit as limitations or requirements as identified in § 8-1002 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change unless this allows federal due dates to be violated. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(7) Regulation of waste received from other jurisdictions. (a) If another municipality, or user located within another municipality,

contributes wastewater to the POTW, the control authority shall enter into an intermunicipal agreement with the contributing municipality.

(b) Prior to entering into an agreement required by subsection (a) above, the control authority shall request the following information from the contributing municipality:

(i) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(ii) An inventory of all users located within the contributing municipality that are discharging to the POTW; and

(iii) Such other information deemed necessary by the control authority.

(c) An intermunicipal agreement, as required by subsection (a) above, shall contain the following conditions:

(i) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits, including Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in § 8-1002(8) of this chapter. The requirement shall specify that such an ordinance and limits must be revised as necessary to reflect changes made to the board's ordinance and local limits;

(ii) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(iii) A provision specifying which pretreatment implementation activities, including individual wastewater discharge or general permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the control authority; and which of these activities will be conducted jointly by the contributing municipality and the control authority;

(iv) A requirement for the contributing municipality to provide the control authority with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(v) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(vi) Requirements for monitoring the contributing municipality's discharge;

(vii) A provision ensuring the control authority access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the control authority; and

(viii) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

The intermunicipal agreement may contain provisions for the control authority has the right to take action to enforce the terms of the contributing municipality's ordinances or to impose and enforce pretreatment standards and requirements directly against discharges of the contributing municipality. (as added by Ord. #863, Nov. 2008)

8-1007. Reporting requirements. (1) Baseline monitoring reports.

(a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the control authority a report which contains the information listed in subsection (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources becoming categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the control authority a report which contains the information listed in subsection (b), below. A new source shall report the method of pretreatment it intends to use to meet the applicable categorical standard(s). A new source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(i) All information required in §§ 8-1005(5)(a)(i)(A), 8-1005(5)(a)(ii), 8-1005(5)(a)(iii)(A), and 8-1005(5)(a)(vi).

(ii) Measurement of pollutants.

(A) The user shall provide the information required in § 8-1005(5)(a)(vii)(A) through (D);

(B) The user shall take a minimum of one (1) representative sample to compile the data necessary to comply with the requirements of this subsection;

(C) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in

accordance with Tennessee Rule 1200-4-14-.06(5) this adjusted limit along with supporting data shall be submitted to the control authority;

(D) Sampling and analysis shall be performed in accordance with § 8-1007(10);

(E) The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(F) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(iii) Compliance certification. A statement, reviewed by the user's authorized representative as defined in § 8-1001(2)(c) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(iv) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 8-1007(2) of this chapter.

(v) Signature and report certification. All baseline monitoring reports must be certified in accordance with section § 8-1007(14)(a) of this chapter and signed by an authorized representative as defined in § 8-1001(2)(c).

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 8-1007(1)(b)(iv) of this chapter:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the control authority no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the control authority.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the control authority a report containing the information described in §§ 8-1005(a)(vi) and 8-1007(1)(b)(ii) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 8-1002(5), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 8-1007(14)(a) of this chapter. All sampling will be done in conformance with § 8-1007(11).

(4) Periodic compliance reports. All SIUs and non-significant categorical industrial users are required to submit periodic compliance reports.

(a) All users must, at a frequency determined by the control authority, submit no less than twice per year (on dates specified) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the control authority or the pretreatment standard necessary to determine the compliance status of the user.

(B) The control authority may authorize an industrial user subject to a categorical pretreatment standard (upon the approval authority's approval) to forego sampling of a pollutant by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. [Tennessee Rule

1200-4-14-.12(5)(b)] This authorization is subject to the following conditions:

(i) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

(ii) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years. The user must submit a new request (including the requirements of § 8-1007(4)(b)(iii) for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See § 8-1005(5)(a)(viii).

(iii) In making a demonstration that a pollutant is not present, the industrial user must provide sufficient data of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(iv) The request for monitoring waiver must be signed in accordance with § 8-1001(2)(c), and include the certification statement in § 8-1007(14)(a) [Tennessee Rule 1200-4-14.06(1)(b)(2)].

(v) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(vi) Any grant of the monitoring waiver by the control authority must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the control authority and the user for three (3) years after the expiration of the waiver.

(vii) Upon approval of the monitoring waiver and revision of the user's permit by the control authority, the industrial user must include on each submitted report the certification statement in § 8-1007(14)(c) below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.

(viii) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of § 8-1007(4)(a), or other more frequent monitoring requirements imposed by the control authority, and notify the control authority.

(ix) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

(c) All periodic compliance reports must be signed and certified in accordance with § 8-1007(14)(a) of this chapter. A chain of custody form must be submitted with all reports.

(d) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(e) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the control authority, using the procedures prescribed in § 8-1007(11) of this chapter; the results must be included in the report for the corresponding reporting period.

(5) Reports of change conditions. Each user must notify the control authority of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least one hundred eighty (180) days before the change.

(a) The control authority may require the user to submit such information as may be deemed as necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 8-1005(5) of this chapter.

(b) The control authority may issue an individual wastewater discharge permit or general permit under § 8-1006(6) of this chapter or modify an existing wastewater discharge permit under § 8-1006(3) of this chapter in response to changed conditions or anticipated changed conditions.

(6) Reports of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a uncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the control authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user. The control authority may request a sample for analysis be collected at the moment of accidental discharge.

(b) Within five (5) days following such discharge, the user shall, unless waived by the control authority, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not

relieve the user of any expense, loss, damage, or other liability which may incur as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (a), above. Employers shall ensure that all employees are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the control authority immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from non-permitted users. All users not required to obtain an individual wastewater discharge permit or general permit shall provide appropriate reports to the control authority as may be required.

(8) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the control authority within twenty-four (24) hours of becoming aware of the violation, the user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within thirty (30) days after becoming aware of the violation. Repeat sampling by the industrial user is not required if the control authority performs sampling at the user's facility at least once a month, or if the control authority performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling, or if the control authority has performed the sampling and analysis in lieu of the industrial user. If sampling performed by the control authority indicates a violation, the control authority may opt to notify the user of the violation and require the user to perform the repeat sampling and analysis [40 CFR 403.12(g)(2)].

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the control authority, the EPA regional water management division director, and state hazardous waste authorities, in writing, of any discharge to the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream

discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 8-1007(5) of this section. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of § 8-1007(1), (3) and (4) of this section.

(b) Discharges are exempt from the requirements of subsection (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.20(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the control authority, the EPA regional waste management waste division director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the control authority or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the reporting period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in subsections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the control authority. Where time proportional sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits [40 CFR 403.12(g)(3)].

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in § 8-1007(1) and (3) [Tennessee Rule 1200-4-14-.12(2) and (4)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical data are available, the control authority may authorize a lower minimum. For the reports required by § 8-1007(4) [Tennessee Rule 1200-4-14-.12(5) and (8)], the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed using the U.S. Postal Service, the date of receipt of the report shall govern.

(13) Retention of records. Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices, as set out in

individual wastewater discharge or general permits. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years after the expiration date of the user's permit. This period shall be automatically extended for the duration of any litigation concerning the user or the control authority, or where the user has been specifically notified of a longer retention period by the control authority.

(14) Certification statements. (a) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 8-1005(6); users submitting baseline monitoring reports under § 8-1007(1) [40 CFR 403.12 (1)]; users submitting reports on compliance with the categorical pretreatment standard deadlines under § 8-1007(3) [40 CFR 403.12 (d)]; users submitting periodic compliance reports required by § 8-1007(4) [40 CFR 403.12 (e) and (h)], and users submitting an initial request to forego sampling of a pollutant on the basis of § 8-1007(4) [40 CFR 403.12 (e) (2) (iii)]. The following certification statement must be signed by an authorized representative as defined in § 8-1001(2)(c):

"I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person(s) who manage the system, or the person(s) directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. "

(b) Annual certification for non-significant categorical industrial users. A facility determined to be a non-significant categorical industrial user by the control authority pursuant to §§ 8-1001(2)(fff)(ii) and 8-1005(6)(c) [40 CFR 403.3 (v) (2)] must annually submit the following certification statement signed in accordance with the signatory requirements in § 8-1001(2)(c) [40 CFR 403.120 (1)]. This certification must accompany an alternative report required by the control authority:

"Based on my inquiry of the person(s) directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR Part ___, I certify that, to the best of my

knowledge and belief that during the period from _____, ____ to _____, ____ [month, days, year(s)]:

(i) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in § 8-1001(2)(fff)(iii);

(ii) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(iii) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information:

_____ "

(c) Certification of pollutants not present. Users that have an approved monitoring waiver based on § 8-1007(4)(b) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

"Based on my inquiry of the person(s) directly responsible for managing compliance with the Pretreatment Standard for 40 CFR Part(s) _____, I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ in the wastewaters due to the activities at the facility since filing of the last periodic report under § 8-1007(4)(a)." (as added by Ord. #863, Nov. 2008)

8-1008. Compliance monitoring. (1) Right of entry: inspection and sampling. The control authority shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any individual wastewater discharge and general permit or order issued hereunder. Users shall allow the control authority or his representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where a user has security measures in force which would require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guard(s) so that, upon presentation of suitable identification, personnel from the control authority, approval authority and EPA shall be permitted to

enter, without delay, for the purposes of performing their specific responsibilities (40 CFR 403.12).

(b) The control authority, approval authority and EPA shall have the right to set up on the industrial user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering of the user's operations.

(c) The control authority may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually, unless specified otherwise, to ensure their accuracy. The location of the monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and on-site analysis (where necessary), whether constructed on public or private property. The monitoring facilities should be provided in accordance with the control authorities requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the control authority to perform independent monitoring activities.

(d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the control authority and shall not be replaced. The costs of clearing such access shall be borne by the user.

(e) Unreasonable delays in allowing the control authority access to the user's premises shall be a violation of this ordinance. (as added by Ord. #863, Nov. 2008)

8-1009. Confidential information. Information and data on a user obtained from reports, surveys, permit applications, individual wastewater discharge or general permits and monitoring programs, and from the control authority's inspections and sampling activities, shall be available to the public or other governmental agency without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the control authority, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user under applicable state law. Any such request must be asserted at the time of submission of the information or data.

When requested and demonstrated by the user furnishing a report, that such information should be held confidential, 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 immediately upon written request to governmental agencies for uses related to this ordinance, the National

Pollutant Discharge Elimination System (NPDES) permit, and/or the state pretreatment program, and 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 and other effluent data, as defined at 40 CFR 2.302, shall not be recognized as confidential information and shall be available to the public without restriction. (as added by Ord. #863, Nov. 2008)

8-1010. Publication of users in significant noncompliance. The control authority shall publish, at least annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of users, which at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment requirements. For the purposes of this provision, a significant industrial user (or any user which violates subsections (3), (4), or (8) of this section) is in significant noncompliance if its violation meets one (1) or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period exceed on a rolling quarterly basis (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 8-1001(2);

(2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 8-1001(2) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other parameters except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by § 8-1001(2) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel and/or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8 (f)(1)(vi)(B) to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in an individual wastewater discharge permit or general permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance

reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations, which may include a violation of best management practices, which the control authority determines will adversely affect the operation or implementation of the local pretreatment program. (as added by Ord. #863, Nov. 2008, and amended by Ord. #869, April 2009)

8-1011. Administrative enforcement remedies. All administrative enforcement actions taken against a significant industrial user, including procedures, orders, and complaints, shall be in accordance with the Tennessee Water Quality Control Act of 1977 and its amendments, specifically Tennessee Code Annotated, § 69-3-123, and enforcement per the Enforcement Response Plan (ERP).

(1) Notification of violation. When the control authority finds that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or general permit, or order issued hereunder, or any other pretreatment standard or requirement, the control authority may serve upon that user a written notice of violation. Within ten (10) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the control authority. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the control authority to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) Consent orders. The Shelbyville Power, Water and Sewerage Board is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period also specified by the document. Consent orders shall have the same force and effect as the administrative orders issued pursuant to sections §§ 8-1004 and 8-1005 of this chapter and shall be judicially enforceable.

(3) Show cause hearing. The control authority may order a user which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or general permit, or order issued hereunder, or any other pretreatment standard or requirement to appear before the Shelbyville Power, Water and Sewerage Board and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why

this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 8-1001(2)(c) and required by § 8-1005(7). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued. Hearings shall be conducted in accordance with the provisions of Tennessee Code Annotated, § 69-3-124.

(4) Compliance orders. When the control authority finds that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or general permit, order issued hereunder, or any pretreatment standard or requirement, the Shelbyville Power, Water and Sewerage Board may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time period. If the user does not show compliance within the specified time period, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated to allow compliance with this ordinance. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, the installation of pretreatment systems(s), and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. A compliance order may also contain a fine for noncompliance with the ordinance or an individual wastewater discharge permit or general permit. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(5) Cease and desist orders. When the control authority finds that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or general permit order issued hereunder, any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Shelbyville Power, Water and Sewerage Board may issue an order to the user directing it to cease and desist all such violations and directing the user:

- (a) Immediately comply with all requirements; and
- (b) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(6) Administrative penalties. (a) Notwithstanding any other section of this ordinance, when the control authority finds that a user has

violated, or continues to violate, any provision of this ordinance, individual wastewater discharge permit or general permit, and/or orders issued hereunder, any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the control authority may penalize such a user in an amount not to exceed ten thousand dollars (\$10,000.00). Such penalties shall be assessed on a per violation, per day basis in accordance with the provisions of Tennessee Code Annotated, § 69-3-125, 126, 128 and 129 and 40 CFR 403.8(f)(1)(vi)(A). In the case of monthly or other long-term average discharge limits, penalties shall be assessed for each day during the period of violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the Shelbyville Power, Water and Sewerage Board shall have such other collection remedies as are available to collect other service charges.

(b) Unpaid charges and penalties shall constitute a lien against the individual significant industrial user's property.

(c) Users desiring to dispute such penalties must file a written request for the Shelbyville Power, Water and Sewerage Board to reconsider the fine along with full payment of the penalty amount within thirty (30) days of being notified of the penalty. Where the Shelbyville Power, Water and Sewerage Board believes a request has merit, the Shelbyville Power, Water and Sewerage Board shall convene a hearing on the matter within fifteen (15) days of receiving the request from the significant industrial user and a hearing will be held before the Shelbyville Power, Water and Sewerage Board in accordance with the provisions of Tennessee Code Annotated, § 69-3-124. The control authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the penalty.

(d) Issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the user.

(7) Emergency suspensions. The Shelbyville Power, Water and Sewerage Board may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution of process wastewater to the POTW. In the event of a user's failure to immediately comply voluntarily with the suspension order, the control authority may take such steps as deemed necessary, including immediate severance of the building sewer connection to the POTW, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals.

The Shelbyville Power, Water and Sewerage Board may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the control authority that the period of endangerment has passed, unless the termination proceedings set forth in subsection (8) of this section are initiated against the user.

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit to the control authority a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence within five days after notification of suspension of service or prior to the date of any show cause or termination hearing under subsections (3) or (8) of this section.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(8) Termination of discharge. In addition to the provision in § 8-1007(6) of this chapter, any user who violates the following conditions is subject to permit termination:

(a) Violation of individual wastewater discharge permit or general permit conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(c) Failure to report significant changes in operations or wastewater constituents and characteristics;

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or

(e) Violation of the pretreatment standards in § 8-1002 of this chapter.

Such user(s) will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (3) of this section why the proposed action should not be taken. Exercise of this option by the control authority shall not be a bar to, or a prerequisite for, taking any other action against the user. (as added by Ord. #863, Nov. 2008)

8-1012. Judicial enforcement remedies. (1) Injunctive relief. (a) If any person discharges sewage, industrial wastes, or other wastes into the POTW contrary to the provisions of this ordinance or any order or individual wastewater discharge permit or general permit issued hereunder, the Shelbyville Power, Water and Sewerage Board, through the board attorney, may commence an action for appropriate legal and/or equitable relief in the Chancery Court of Bedford County. Any judicial proceedings and relief shall be in accordance with the provisions of Tennessee Code Annotated, § 69-3-127.

(b) When the control authority finds that a user has violated, or continues to violate, any provisions of this ordinance, an individual

wastewater discharge permit or general permit, order issued hereunder, or any other pretreatment standard or requirement, the Shelbyville Power, Water and Sewerage Board, through the board attorney, may petition the court for the issuance of a temporary or permanent injunction or both (as may be appropriate) which restrains or compels the specific performance of the individual wastewater discharge or general permit, order, or other requirement imposed by this ordinance on activities of the user.

(c) The Shelbyville Power, Water and Sewerage Board may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(2) Civil penalties. (a) A user who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or general permit, an order issued hereunder, or any pretreatment standard or requirement shall be liable to the Shelbyville Power, Water, and Sewerage Board for a maximum civil penalty of ten thousand dollars (\$10,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The Shelbyville Power, Water and Sewerage Board may recover reasonable attorneys' fees, court costs, engineering fees, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the board.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(3) Criminal prosecution. Any violation of this ordinance is subject to criminal prosecution as ascertained in Tennessee Code Annotated, § 40-35-3.

(4) Remedies nonexclusive. The remedies provided for in this ordinance are not exclusive. The control authority may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Shelbyville Power, Water and Sewerage Board enforcement response plan. However, the control authority may take other action against any user when the circumstances warrant. Further, the control authority is empowered to take

more than one (1) enforcement action against any noncompliant user. (as added by Ord. #863, Nov. 2008)

8-1013. Affirmative defenses to discharge violations. (1) Treatment upset. (a) Any significant industrial user which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation, shall inform the control authority thereof immediately upon becoming aware of the upset.

(b) A user who wishes to establish affirmative defense of a treatment upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the user can identify the cause(s) of the upset;

(ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(iii) The user has submitted the following information to the control authority within twenty-four (24) hours of becoming aware of the upset (where such information is provided orally, a written report thereof shall be filed by the user within five (5) days).

The report shall contain:

(A) A description of the indirect discharge and cause of noncompliance;

(B) The duration of noncompliance, including exact dates and times of noncompliance, and, if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored;

(C) All steps taken or planned to reduce, eliminate and prevent recurrence of such an upset.

(c) A significant industrial user which complies with the notification provisions of this section in a timely manner shall have an affirmative defense to any enforcement action brought by the Shelbyville Power, Water and Sewerage Board for any noncompliance with this ordinance, or an order or industrial wastewater discharge or general permit issued hereunder to the significant industrial user, which arises out of violations attributable and alleged to have occurred during the period of the documented and verified upset.

(d) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided.

This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(2) Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 8-1002(3)(a) of this chapter or the specific prohibitions in § 8-1002(3)(b)(i) through (xvi) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharge and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the control authority was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

The affirmative defense outlined in this section does not apply to the specific prohibitions in § 8-1002(3)(b)(i), (iii) and (xv) of this chapter.

(3) Bypass. (a) For the purposes of this section:

(i) Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not violating applicable pretreatment standards or requirements. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (c) and (d) of this section.

(c) Bypass notification. (i) If a user knows in advance of the need for a bypass, it shall submit prior notice to the control authority, if possible at least ten (10) days before the date of the bypass.

(ii) A user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the control authority within twenty-four (24) hours from the time the user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration to the bypass, including

exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The control authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Prohibition of a bypass. (i) Bypass is prohibited, and the control authority may take enforcement action against a user for a bypass, unless;

(A) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There was no feasible alternative to the bypass, including the use of auxiliary treatment facilities, retention of untreated wastes, or maintenances during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The user properly notified the control authority as required by subsection (3)(c) of this section.

The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the three (3) conditions listed in subsection (d)(i) of this section. (as added by Ord. #863, Nov. 2008)

8-1014. Miscellaneous provisions. (1) Pretreatment charges and fees. The Shelbyville Power, Water and Sewerage Board may adopt reasonable fees for reimbursement of costs of setting up and operating the board's pretreatment program, which may include:

(a) Fees for wastewater discharge permit applications including the cost of processing such applications;

(b) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing the user's discharge, and reviewing monitoring reports and certification statements submitted by users;

(c) Fees for reviewing and responding to accidental discharge procedures and construction;

(d) Fees for filing appeals;

(e) Fees to recover administrative and legal costs (not included in subsection (1)(b)) associated with the enforcement activity taken by the control authority to address user noncompliance; and

(f) Other fees the board may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the board.

(2) Severability. If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

(3) Conflict. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

(4) Effective date. This ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law. (as added by Ord. #863, Nov. 2008)

CHAPTER 11

MUNICIPAL SEPARATE STORM SEWER SYSTEM¹

SECTION

8-1101. Definitions.

8-1102. Discharges must be authorized by permit.

8-1103. Prohibition of non-storm water discharges.

8-1104. Allowable storm water discharges.

8-1105. Exceptions.

8-1106. Enforcement.

8-1107. Inspections.

8-1108. Violations.

8-1101. Definitions. (1) "Municipal separate storm sewer system, or MS4" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains) designed or used for collecting or conveying storm water; provided, however, that sanitary and combined sewers are not included in the definition of the municipal separate storm sewer system.

(2) "Non-storm water discharge" means any discharge to the municipal separate storm sewer system except stormwater discharges permitted under the permit.

(3) "Permit" means the State of Tennessee National Pollution Discharge Elimination System (NPDES) General Permit for Discharges from Small Municipal Separate Storm Sewer Systems issued February 27, 2003, and any renewal thereof. (as added by Ord. #759, Dec. 2004)

8-1102. Discharges must be authorized by permit. Stormwater discharges into the MS4 of the City of Shelbyville are permitted unless not authorized under section 1.5 of the permit. (as added by Ord. #759, Dec. 2004)

8-1103. Prohibition of non-storm water discharges. Non-storm water discharges into the MS4 of the City of Shelbyville are prohibited and are declared to be unlawful unless authorized by this chapter or the permit. (as added by Ord. #759, Dec. 2004)

8-1104. Allowable storm water discharges. The following non-storm water discharges into the MS4 of the City of Shelbyville are permitted unless the Division of Water Pollution Control of the Tennessee Department of

¹Ord. #2013-927, amends this chapter by referencing the adoption of the Shelbyville Stormwater Management Program under 2010 General Permit.

Environment and Conservation has identified them as a source of pollutants to the waters of the State of Tennessee:

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows;
- (4) Rising ground waters;
- (5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;
- (6) Uncontaminated pumped ground water;
- (7) Discharges from potable water sources;
- (8) Foundation drains;
- (9) Air conditioning condensate;
- (10) Irrigation water;
- (11) Springs;
- (12) Water from crawl space pumps;
- (13) Footing drains;
- (14) Lawn watering;
- (15) Individual residential car washing;
- (16) Flows from riparian habitats and wetlands;
- (17) De-chlorinated swimming pool discharges;
- (18) Street wash waters resulting from normal street cleaning operations; or,
- (19) Discharges or flows from fire fighting activities. (as added by Ord. #759, Dec. 2004)

8-1105. Exceptions. Discharges pursuant to a valid and effective NPDES permit issued by the State of Tennessee are not prohibited by this chapter. (as added by Ord. #759, Dec. 2004)

8-1106. Enforcement. The city manager shall have the authority to implement this chapter by appropriate regulations approved by the city council. (as added by Ord. #759, Dec. 2004)

8-1107. Inspections. Personnel authorized by the city manager may enter upon the premises of any land or facility within the City of Shelbyville for the purpose of inspecting impacts or potential impacts to stormwater quality or for violations of the permit, this chapter, or regulations issued for its implementation. (as added by Ord. #759, Dec. 2004)

8-1108. Violations. Violations of this chapter (including the City of Shelbyville Enforcement Response Plan)¹ shall subject the violator to civil

¹The City of Shelbyville Enforcement Response Plan is of record in the
(continued...)

penalties for each day the violation continues. Each day of violation shall constitute a separate violation. In addition to any other remedies at law, the City of Shelbyville shall have the right to seek injunctive relief for any violation of this chapter or regulations issued pursuant thereto. (as added by Ord. #759, Dec. 2004, and amended by Ord. #2013-97, Nov. 2013)

¹(...continued)
office of the city recorder.

TITLE 9

MOTOR VEHICLES AND TRAFFIC¹

CHAPTER

1. MISCELLANEOUS PROVISIONS.
2. SPEED LIMITS.
3. TURNING MOVEMENTS.
4. STOPPING AND YIELDING.
5. PARKING.
6. ENFORCEMENT.
7. COMPLIANCE WITH FINANCIAL RESPONSIBILITY LAW REQUIRED.

CHAPTER 1

MISCELLANEOUS PROVISIONS

SECTION

- 9-101. Motor vehicle requirements.
- 9-102. Authorized emergency vehicle defined.
- 9-103. Operation of authorized emergency vehicles.
- 9-104. Following emergency vehicles.
- 9-105. Running over fire hoses, etc.
- 9-106. Driving on streets closed for repairs, etc.
- 9-107. Reckless driving.
- 9-108. Driving under the influence.
- 9-109. One-way streets.
- 9-110. Unlaned streets.
- 9-111. Laned streets.
- 9-112. Yellow lines.
- 9-113. Miscellaneous traffic-control signs, etc.
- 9-114. General requirements for traffic-control signs, etc.
- 9-115. Unauthorized traffic-control signs, etc.
- 9-116. Presumption with respect to traffic-control signs, etc.
- 9-117. School safety patrols.
- 9-118. Driving through funerals or other processions.
- 9-119. Damaging pavements.
- 9-120. Clinging to vehicles in motion.
- 9-121. Riding on outside of vehicles.
- 9-122. Backing vehicles.
- 9-123. Projections from the rear of vehicles.

¹For provisions relating to obstructing and/or excavating in public streets, alleys, sidewalks and rights-of-way, etc., see title 12 in this code.

- 9-124. Causing unnecessary noise.
- 9-125. Vehicles and operators to be licensed.
- 9-126. Passing.
- 9-127. Persons operating or riding bicycles, motorcycles, or motorscooters.
- 9-128. Accidents.
- 9-129. Gross vehicular weight limit on vehicles using certain city streets.

9-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with a properly operating muffler, lights, brakes, horn and such other equipment as is prescribed and required by chapter 9, title 55, of the Tennessee Code Annotated. (1979 code, § 9-101)

9-102. Authorized emergency vehicle defined. Authorized emergency vehicles shall be the fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1979 code, § 9-102)

9-103. Operation of authorized emergency vehicles.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

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

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

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the

¹See section 9-401 in this code for provisions with respect to the operation of other vehicles upon the approach of emergency vehicles.

consequences of his reckless disregard for the safety of others. (1979 code, § 9-103)

9-104. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1979 code, § 9-104)

9-105. 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. (1979 code, § 9-105)

9-106. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1979 code, § 9-106)

9-107. 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. (1979 code, § 9-107)

9-108. Driving under the influence. See the Tennessee Code Annotated, sections 55-10-307, 55-10-401, and 55-10-303.

9-109. 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. (1979 code, § 9-109)

9-110. Unlaned streets. (1) Upon all unlaned streets of sufficient width a vehicle shall be driven upon the right half of the street except:

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

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

(c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1979 code, § 9-110)

9-111. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1979 code, § 9-111)

9-112. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1979 code, § 9-112)

9-113. Miscellaneous traffic-control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking or device placed or erected by the state or the city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (1979 code, § 9-113)

9-114. 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. (1979 code, § 9-114)

9-115. Unauthorized traffic-control signs, etc. No person shall place, maintain or display upon or in view of any street, any unauthorized sign, signal, marking or device which purports to be, or is an imitation of or resembles an official traffic-control sign, signal, marking or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official

¹See also sections 9-405--9-409 in this code.

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

traffic-control sign, signal, marking or device or any railroad sign or signal. (1979 code, § 9-115)

9-116. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. (1979 code, § 9-116)

9-117. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols, when such patrols are assigned under the authority of the chief of police, and are acting in accordance with instructions; provided, that such persons giving any order, signal or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1979 code, § 9-117)

9-118. Driving through funerals or other processions. Except when otherwise directed by a police officer no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1979 code, § 9-118)

9-119. Damaging pavements. No person shall operate upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1979 code, § 9-119)

9-120. 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. (1979 code, § 9-120)

9-121. 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. (1979 code, § 9-121)

9-122. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1979 code, § 9-122)

9-123. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1979 code, § 9-123)

9-124. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1979 code, § 9-124)

9-125. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1979 code, § 9-125)

9-126. 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. (1979 code, § 9-126)

9-127. Persons operating or riding bicycles, motorcycles, or motorscooters. Every person riding or operating a bicycle, motorcycle, or motorscooter in the city shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motorscooters.

No person operating or riding a bicycle, motorcycle, or motorscooter shall ride other than upon or astride the permanent and regular seat attached thereto nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motorscooter shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motorscooter shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handle bar. (1979 code, § 9-127)

9-128. Accidents. It shall be unlawful and a violation of this section for any person to fail to comply with the state law requiring the stopping, rendering of aid, etc., and reporting of motor vehicle accidents. (1979 code, § 9-128)

9-129. Gross vehicular weight limit on vehicles using certain city streets. (1) It shall be unlawful for any vehicle having a gross vehicular weight in excess of ten thousand (10,000) pounds to occupy or travel the City of Shelbyville, Tennessee, except for the following assigned truck routes attached hereto as Exhibit A,¹ and incorporated herein by reference.

The use of streets other than these routes is permitted only where reasonably necessary to enable the driver of such vehicle to make a service call or delivery. Each violation not to exceed seventy-five dollars (\$75.00). (as added by Ord. #534, Nov. 1995)

¹Exhibit A to Ord. #534 is of record in the office of the recorder.

CHAPTER 2

SPEED LIMITS

SECTION

9-201. In general.

9-202. At intersections.

9-203. In school zones.

9-204. In congested areas.

9-201. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits in which cases the posted speed limit shall apply. (1979 code, § 9-201)

9-202. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (1979 code, § 9-202)

9-203. In school zones. Generally, pursuant to section 55-8-152, Tennessee Code Annotated, special speed limits in school zones 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.

When the city council 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. (1979 code, § 9-203)

9-204. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1979 code, § 9-204)

CHAPTER 3

TURNING MOVEMENTS

SECTION

9-301. Generally.

9-302. Right turns.

9-303. Left turns on two-way roadways.

9-304. Left turns on other than two-way roadways.

9-305. U-turns.

9-301. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1979 code, § 9-301)

9-302. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1979 code, § 9-302)

9-303. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center lines of the two roadways. (1979 code, § 9-303)

9-304. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1979 code, § 9-304)

9-305. U-turns. U-turns are prohibited. (1979 code, § 9-305)

¹See section 55-8-143, Tennessee Code Annotated.

CHAPTER 4

STOPPING AND YIELDING

SECTION

- 9-401. Upon approach of authorized emergency vehicles.
- 9-402. When emerging from alleys, etc.
- 9-403. To prevent obstructing an intersection.
- 9-404. At railroad crossings.
- 9-405. At "stop" signs.
- 9-406. At "yield" signs.
- 9-407. At traffic-control signals generally.
- 9-408. At flashing traffic-control signals.
- 9-409. At pedestrian-control signals.
- 9-410. Stops to be signaled.

9-401. Upon approach of authorized emergency vehicles. Upon the immediate approach of an authorized emergency vehicle¹ making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1979 code, § 9-401)

9-402. 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. (1979 code, § 9-402)

9-403. To prevent obstructing an intersection. No driver shall enter any intersection or marked cross walk unless there is sufficient space on the other side of such intersection or cross walk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or cross walk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1979 code, § 9-403)

¹See section 9-102 in this code.

9-404. 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. (1979 code, § 9-404)

9-405. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the cross walk on the near side of the intersection or, if there is no cross walk, then immediately before entering the intersection and shall remain standing until he can proceed through the intersection in safety. (1979 code, § 9-405)

9-406. 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. (1979 code, § 9-406)

9-407. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution" or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

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

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

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

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

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

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

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. 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 cross walk 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. (1979 code, § 9-407)

9-408. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest cross walk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in section 9-404 of this title. (1979 code, § 9-408)

9-409. At pedestrian-control signals. Wherever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:

(1) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1979 code, § 9-409)

9-410. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1979 code, § 9-410)

¹See section 55-8-143, Tennessee Code Annotated.

CHAPTER 5

PARKING

SECTION

- 9-501. Generally.
- 9-502. Angle parking.
- 9-503. Occupancy of more than one space.
- 9-504. Where prohibited.
- 9-505. Loading and unloading zones.
- 9-506. Presumption with respect to illegal parking.

9-501. 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 the city shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 a.m. and 5:00 a.m. or on any other public street or alley for more than forty-eight (48) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1979 code, § 9-501)

9-502. 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. (1979 code, § 9-502)

9-503. Occupancy of more than one space. No person shall park a vehicle in any designate 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. (1979 code, § 9-503)

9-504. Where prohibited. No person shall park a vehicle in violation of, or beyond the time limits authorized by, any sign placed or erected by the state or city, nor:

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen (15) feet thereof.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within fifty (50) feet of a railroad crossing.
- (7) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance.
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (10) Upon any bridge.
- (11) Alongside any curb painted yellow or red by the city.
- (12) Upon private property without authority of the person owning or being in charge of such property.
- (13) It is hereby declared to be a misdemeanor and unlawful for any person to park or leave standings any vehicle in a stall or space designated for physically handicapped persons, if the stall or space is posted or marked in a prescribed way, unless the vehicle displays distinguishing license plates or place cards issued for handicapped persons, including disabled veterans. These provisions apply to off-street parking facilities owned or operated by the state, and to all off-street parking facilities owned or operated by a local authority, and to any privately owned and maintained off-street parking facility under prescribed conditions. A person convicted of violating this section will be punished by a mandatory fine of not less than \$25.00 nor more than \$50.00. (1979 code, § 9-504, as amended by ord. No. 321)

9-505. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading, or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1979 code, § 9-505)

9-506. 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. (1979 code, § 9-506)

CHAPTER 6

ENFORCEMENT

SECTION

9-601. Issuance of traffic citations.

9-602. Failure to obey citation.

9-603. Illegal parking.

9-604. Impoundment of vehicles.

9-605. Disposal of "abandoned motor vehicles."

9-601. Issuance of traffic citations. When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1979 code, § 9-601)

9-602. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1979 code, § 9-602)

9-603. Illegal parking. (1) Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. In the event, the offense is simply an "overtime" parking violation, the offense shall be managed as described in subsections (2) through (5) herein below.

(2) Downtown parking. Parking within the downtown area of the city, "the square," shall be limited to three (3) hours. The public square is defined as the courthouse square, plus the public streets leading into the square. (An area bounded by South Cannon, Lane Parkway, Highway 82 Bypass and McGrew Street).

(3) Offense. Parking a vehicle continuously in a parking slot for a period of longer than three (3) hours within the designated area patrolled by the City of Shelbyville shall result in the issuance of a parking citation.

(4) Enforcement. A violation shall result in the issuance of a parking citation resulting in an initial fine being assessed in the amount of ten dollars (\$10.00) which may be disposed of by payment in full being made to the city recorder or designee within thirty (30) days of the issuance. In the event the initial fine is not paid in full prior to the expiration of thirty (30) days, the fine shall automatically increase to twenty-five dollars (\$25.00), which shall be payable until such time as a warrant is issued requiring a judicial hearing.

(5) Exceptions. The area of the public square controlled by Bedford County shall not be subject to this section. For circumstances deemed appropriate and upon request of the Bedford County Court System, the Shelbyville Chief of Police or his designee is authorized to waive citations and the fines associated therewith. (1979 code, § 9-603, as amended by Ord. #525, May 1995, and replaced by Ord. #2014-936, April 2014)

9-604. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1979 code, § 9-604)

9-605. Disposal of "abandoned motor vehicles." "Abandoned motor vehicles" as defined in section 55-16-103, Tennessee Code Annotated, shall be impounded and disposed of by the police department in accordance with the provisions of sections 55-16-103 through 55-16-109, Tennessee Code Annotated. (1979 code, § 9-605, modified)

CHAPTER 7

COMPLIANCE WITH FINANCIAL RESPONSIBILITY LAW REQUIRED

SECTION

9-701. Compliance with financial responsibility law required.

9-701. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits of the City of Shelbyville, Tennessee must be in compliance with the financial responsibility law.

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

(3) For the purposes of this section, "financial responsibility" means

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in the State of Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

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

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #685, June 2002)

TITLE 10

OFFENSES--MISCELLANEOUS¹

CHAPTER

1. GENERALLY.
2. ENUMERATED.
3. ENFORCEMENT OF ORDINANCE SUMMONSES.

CHAPTER 1

GENERALLY

SECTION

10-101. Misdemeanors of the state adopted.

10-101. Misdemeanors of the state² adopted. All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or recognized by the common law to be misdemeanors are hereby designated and declared to be offenses against the City of Shelbyville also. Any violation of any such law within the corporate limits is also a violation of this section. (1979 code, § 10-101)

¹For offenses relating to animals and fowls, see title 3 in this code; for offenses relating to health and sanitation, see title 8; for traffic offenses, see title 9; for non-traffic offenses relating to streets and sidewalks, see title 12.

²See sections 39-11-110 and 39-11-111 of the Tennessee Code Annotated for definitions of "misdemeanor."

CHAPTER 2

ENUMERATED

SECTION

- 10-201. Assault and battery.
- 10-202. Disturbing the peace.
- 10-203. Profanity, etc.
- 10-204. Escape from custody or confinement.
- 10-205. Resisting or interfering with city personnel.
- 10-206. Impersonating a government officer or employee.
- 10-207. Weapons and firearms generally.
- 10-208. Discharge of weapons.
- 10-209. Throwing of missiles.
- 10-210. Gambling.
- 10-211. Promotion of gambling.
- 10-212. [Deleted.]
- 10-213. Loitering.
- 10-214. Trespassing on trains.
- 10-215. Minors in beer places.
- 10-216. Abandoned refrigerators, etc.
- 10-217. Malicious mischief.
- 10-218. Posting notices, etc.
- 10-219. Public drunkenness.
- 10-220. Drinking beer, etc., on streets, etc.
- 10-221. Spitting.
- 10-222. Coercing people not to work.
- 10-223. Caves, wells, cisterns, etc.
- 10-224. Interference with traffic.
- 10-225. Anti-noise regulations.
- 10-226. Fortune telling, etc.
- 10-227. Wearing masks.
- 10-228. Removal of gravel from Duck River.
- 10-229. Storage of abandoned motor vehicles.
- 10-230. Ordinance regulating the presence and conduct of minors on streets and public places.
- 10-231. Storage of abandoned motor vehicles on private property.

10-201. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery upon any person. (1979 code, § 10-201)

10-202. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive or

obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1979 code, § 10-202)

10-203. Profanity, etc. No person shall use any profane, vulgar, or indecent language in or near any public street or other public place or in or around any place of business open to the use of the public in general. (1979 code, § 10-208)

10-204. 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. (1979 code, § 10-209)

10-205. Resisting or interfering with city personnel. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the city while such officer or employee is performing or attempting to perform his city duties. (1979 code, § 10-210)

10-206. 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 other governmental officer or employee. (1979 code, § 10-211)

10-207. Weapons and firearms generally. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties. It shall also be unlawful for any unauthorized person to discharge a firearm within the city. (1979 code, § 10-212, as amended by Ord. #2015-956, March 2015)

10-208. Discharge of weapons. (1) It shall be unlawful for any person in the city to discharge any firearm, air gun, BB gun, gas-operated or spring gun, bow or any instrument, toy or weapon, commonly known as a "peashooter,"

"slingshot," or "beany," made for the purpose of throwing or projecting by any means whatever any missile of any kind or composition including, but not limited to, a bullet, pellet, BB, arrow, or rock, whether such instrument or its missile is called by any name set forth above or by any other name.

(2) Exception. The prohibition contained in paragraph (1) above shall not apply to shooting galleries or archeries regularly maintained by a responsible organization or group, and constructed or established in accordance with nationally recognized standards for the activity, but then only under such circumstances that the instrument can be fired, discharged or operated in such galleries or archeries in a manner which will not endanger persons or property, and also, under such circumstances as to prevent the missile therefrom from traversing in even the slightest degree any grounds or space outside the limits of such gallery or archery, whether or not the grounds which would be traversed are occupied by persons or property of any kind, provided this section shall not prohibit any officer of law from discharging a firearm in the performance of his duty, not to any citizen from discharging a firearm when legally defending persons or property. (1979 code, § 10-213, as replaced by Ord. #382, and amended by Ord. #2015-956, March 2015)

10-209. Throwing of missiles. It shall be unlawful for any person to maliciously 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. (1979 code, § 10-214)

10-210. Gambling. It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (1979 code, § 10-215)

10-211. Promotion of gambling. It shall be unlawful for any person to encourage, promote, aid or assist the playing at any crime, or the making of any bet or wager, for money or other valuable thing, or to possess, keep or exhibit for the purpose of gambling, any gaming table, device, ticket or any other gambling paraphernalia. (1979 code, § 10-216)

10-212. [Deleted.] (1979 code, § 10-217, as deleted by Ord. #2015-954, Feb. 2015)

10-213. Loitering. It shall be unlawful for any person without legitimate business or purpose to loaf, loiter, wander or idle in, upon, or about any way or place customarily open to public use. (1979 code, § 10-218)

10-214. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1979 code, § 10-221)

10-215. Minors in beer places. No minor under eighteen (18) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1979 code, § 10-222)

10-216. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox or other container with any type latching or locking door without first removing therefrom the latch, lock or door. (1979 code, § 10-223)

10-217. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to wilfully, maliciously or wantonly damage, deface, destroy, conceal, tamper with, remove, withhold or trespass upon any real or personal property which does not belong to him. (1979 code, § 10-225)

10-218. Posting notices, etc. No person shall fasten, in any way, any show-card, poster or other advertising device upon any public or private property unless legally authorized to do so. (1979 code, § 10-226)

10-219. Public drunkenness. (See the Tennessee Code Annotated, sections 39-17-310, et seq. and title 33, chapter 8.)

10-220. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a beer permit and license for on premises consumption. (1979 code, § 10-228)

10-221. Spitting. It shall be unlawful for any person to spit upon any public street or sidewalk or upon the floors or walks of any public place. (1979 code, § 10-229)

10-222. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful

employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1979 code, § 10-230)

10-223. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1979 code, § 10-231)

10-224. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever, on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct or interfere with the free passage of pedestrian or vehicular traffic thereon. (1979 code, § 10-232)

10-225. Anti-noise regulations. Subject to the provisions of this section the creating of any unreasonably loud, disturbing and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

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

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

(b) Radios, phonographs, etc. The playing of any radio, phonograph or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio or television, in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons in any office or hospital, or in any dwelling, hotel or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, hooting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of any persons in any hospital, dwelling, hotel or other type of residence or of any person in the vicinity.

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

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

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

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

(h) Building operations. The erection (including excavation, demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 a.m. and 6:00 p.m. on week days, except in case of urgent necessity in the interest of public health and safety.

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

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

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

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

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. (1979 code, § 10-233)

10-226. 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. (1979 code, § 10-234)

10-227. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.
- (2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.
- (3) Persons wearing gas masks in civil defense drills and exercises or emergencies.
- (4) Any person having a special permit issued by the city manager to wear a traditional holiday costume. (1979 code, § 10-235)

10-228. Removal of gravel from Duck River. (1) It is hereby declared to be illegal and a violation of this section to remove gravel from the river bed from Duck River Dam at Shelbyville for a distance from the dam to the city limits down the river, following the centerline of the river bed in a westerly and southwesterly direction.

(2) The removal of any such gravel within the distance herein enumerated constitutes a misdemeanor and shall be punishable under the general penalty clause for this municipal code. In addition to the fine, the City of Shelbyville is specifically authorized to institute suit against any responsible individual, firm, or corporation, to collect the value of the gravel removed and also to collect damages for the destruction of the natural beauty of the surrounding area and for the destruction of the specific fishing area near the Red Horse shoal immediately below the Duck River Dam. (1979 code, § 10-237)

10-229. Deleted. (as added by ord. no. 412, Sept. 1988, and replaced by Ord. #520, March 1995, See § 10-231)

10-230. Ordinance regulating the presence and conduct of minors on streets and public places. (1) Short title. This ordinance shall be known and may be cited as the "Ordinance Regulating The Presence and Conduct of Minors On Streets And Public Places."

(2) Definitions. For the purposes of this section, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number the plural number. The word "shall" is always mandatory and not merely directory.

(a) "City" is the City of Shelbyville.

(b) "Minor" is any person under the age of 18.

(c) "Parent" is the natural or adoptive parent of a minor.

(d) "Guardian" is any person other than a parent, who has legal guardianship of a minor.

(e) "Custodian" is any person over the age of 18 who is in loco parentis to a juvenile.

(f) "Public place" shall mean any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall include but not be limited to any store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, pool room, shopping center and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above.

(3) Curfew for minors. It shall be unlawful for any minor to remain, idle, wander, stroll or play in any public place either on foot or to cruise about without a set destination in any vehicle in, about or upon any place in the city between the hours of 10:30 p.m. and 5:00 a.m., Sunday through Thursday and between the hours of 12:00 a.m. and 5:00 a.m., Friday through Saturday unless accompanied by a parent, guardian, custodian or other adult person having custody or control of such minor unless the minor is on an emergency errand or specific business or activity directed or permitted by his parent, guardian or other adult person having the care and custody of the minor or where the presence of such minor is connected with or required by some legitimate employment, trade or professional occupation.

(4) Responsibility of owners of public places. It shall be unlawful for any person, firm or corporation operating or having charge of any public place to knowingly permit or suffer the presence of minors under the age of 18 between the hours of 10:30 p.m. and 5:00 a.m., Sunday through Thursday and between the hours of 12:00 a.m. and 5:00 a.m., Friday through Saturday unless accompanied by a parent, guardian, custodian or other adult person having custody or control of such minor unless the minor is on an emergency errand or specific business or activity directed or permitted by his parent, guardian or other adult person having the care and custody of the minor or where the presence of such minor is connected with or required by some legitimate employment, trade, profession occupation.

(5) Parents' responsibility. It shall be unlawful for the parent, guardian or other adult person having custody or control of any minor under the age of 18 to suffer or permit or by inefficient control to allow such person to be on the streets or sidewalks or on or in any public property or public place within the city between the hours of 10:30 p.m. and 5:00 a.m., Sunday through Thursday and between the hours of 12:00 a.m. and 5:00 a.m., Friday through Saturday. However, the provisions of this section do not apply to a minor accompanied by his parent, guardian, custodian or other adult person having the care, custody or control of the minor, or if the minor is on an emergency errand or specific business or activity directed by his parent, guardian, custodian or other adult having the care and custody of the minor or if the parent, guardian or other adult person herein has made a missing person notification to the police department.

(6) Special functions. Any minor attending a special function or entertainment of any church, school, club, or other organization that requires such minor to be out at a later hour than that called for in this section shall be exempt from the provisions of this section provided the church, school, club or other entertainment shall register in advance with the Shelbyville Police Department to have the minors stay out to this later hour. The registrant shall state the time the function or entertainment shall end, and the minors who attend the function shall be required to be in their homes or usual places of abode within one hour after the function is ended.

(7) Procedures. (a) Any police officer upon finding a minor in violation of section 10-230 shall ascertain the name and address of such minor and warn the minor that he is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode. The police officer shall report such action to the shift commander of the police department who in turn shall notify the parents, guardian, or person having custody or control of such minor.

(b) If such minor refuses to heed such warning or direction by any police officer or refuses to give such police officer his correct name and address, or if the minor has been warned on a previous occasion that he or she is in violation of curfew, he or she shall be taken to the police department and the parent, guardian or other adult person having the care and custody of such minor shall be notified to come and take charge of the minor. If the parent, guardian or other adult person above cannot be located or fails to come and take charge of the minor, the minor shall be released to the proper legal authorities.

(8) Penalties. Any minor violating the provisions of this section shall be dealt with in accordance with the juvenile court law and procedure. Any parent, guardian, or other adult person having the care and custody of a minor or the owner of a public place violating this section shall, after having been previously notified of this section be fined not more than \$100.00 dollars for each offense. (Ord. #535, Nov. 1995)

10-231. Storage of abandoned motor vehicles on private property. Every motor vehicle located on private property in a residential area shall be either stored inside a fully enclosed structure, or parked or stored in a safe manner on a paved or graveled area, other than a sidewalk. Such paved or graveled parking area for private residential property shall not exceed twenty-five percent (25%) of the total lot area. It shall be unlawful for the owner or occupant of a residential building, structure or property to utilize the premises of such residential property for the open storage of any abandoned or disabled motor vehicle, regardless of whether or not it is on a paved or graveled area. A disabled motor vehicle is one which has come in such a state of disrepair that it is incapable of being driven or moved under its own power, or is in the process of disassembly, being stripped, or dismantled, or undergoing major repair, overhaul, or body work. It shall include but not be limited to any wrecked, junked, partially dismantled, or inoperative motor vehicle which is maintained in open storage on private property. An abandoned motor vehicle is one which left on private property for more than 48 hours without the consent of the owner or person in charge of such property. Storage of motor vehicles in violation of this provision is detrimental to the health, safety and welfare of the community, as it interferes with the enjoyment and reduces the value of property and interferes with the comfort and well-being of the public, thereby creating a public nuisance. Such nuisance shall be handled by the city as follows:

(1) Removal required. One or more such motor vehicles in violation of the provisions of this chapter shall constitute a nuisance detrimental to the health, safety and general welfare of the inhabitants of the city. It shall be the duty of the registered owner of such motor vehicle and shall also be the duty of the person in charge or control of the private property upon which motor vehicle is located, whether as owner, tenant, occupant, lessee or otherwise, to remove the same or to have the vehicle housed within a fully enclosed structure.

(2) Notice to remove. Whenever it shall appear that a violation of the provision of this section exists, the city manager shall give, or cause to be given, notice to the registered owner of any motor vehicle which is in violation of this section, and to the owner or person in lawful possession or control of the property upon which such motor vehicle is located, advising that such motor vehicle violates the provisions of this section and directing that such vehicle be moved to a place of lawful storage within ten (10) days. Such notice shall be served upon the owner of the vehicle by leaving a copy of such notice upon or within the vehicle. Notice to the owner or person in lawful possession or control of the property upon which motor vehicle is located may be served by conspicuously posting such notice upon the premises or by United States mail.

(3) Refusal to remove. Any person who fails, neglects or refuses to remove the improperly stored or disabled motor vehicle or properly store the same and abate said nuisance in accordance with the notice as provided herein, shall be in violation of the provisions of this section.

(4) Vehicle removal. If the vehicle is not disposed of after the time provided for in the aforesaid notice, the owner shall be cited for violating this section. It shall be a separate offense for each and every day or portion thereof, during which any violation of this section is committed, continued, or permitted, and upon conviction of any such violation such person shall be punishable by a fine as established by local applicable laws. If the vehicle is not disposed of after the time provided for in the aforesaid notice and after having been properly adjudicated in violation of this section, the city manager may report the location of such vehicle to the police department and direct its removal. The police department or a wrecker designated by it shall then remove such vehicle or cause it to be removed to a designated storage area. A permanent record shall be completed on the vehicle containing make, model, I.D., personal contents and general condition. Vehicle will be removed only during day light hours.

(5) Disposal of vehicle. If after 45 days, the vehicle has not been claimed, the holder of the vehicle shall make or cause to be made a title search on the vehicle. After the title search has been completed, the holder of such vehicle may dispose of such vehicle as prescribed by state law.

(6) Return of vehicle to owner. If during the time that the vehicle is being held, the owner of the vehicle demands the return of such vehicle, then the holder shall turn the vehicle over to the owner upon payment of the storage and tow in fees by the owner. The holder shall notify the city manager of such redemption by the owner.

(7) Storage and sale of valuable property found in abandoned vehicles. Any valuable property found in any abandoned vehicle subject to this section shall be stored by the police department and sold at public auction as determined by the city manager. (Ord. #520, March 1995, as amended by Ord. #743, July 2004)

CHAPTER 3

ENFORCEMENT OF ORDINANCE SUMMONSES

SECTION

10-301. Enforcement of ordinance summonses; designation of municipal enforcement officers to issue.

10-302. Issuance, contents and failure to execute.

10-303. Failure to appear.

10-301. Enforcement of ordinance summonses; designation of municipal enforcement officers to issue. The city code enforcer, rabies control officer, and any other municipal enforcement officer, as designated by the city manager or city council, shall have the authority to issue ordinance summonses in the area of sanitation and animal control as provided in Tennessee Code Annotated, sections 7-63-201 through 7-63-204.

Further all park officers shall have authority to issue ordinance summonses within the confines of park complex, or any other park or recreation area of the city. (as added by ord. No. 409 and amended by ord. No. 413)

10-302. Issuance, contents and failure to execute. Such enforcement officers who witness a violation of any ordinance, law or regulation in those areas in which they have been given the authority, by the nature of their employment, to issue ordinance summonses, may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person cited notice of the charge against him and state specific date and place for the offender to appear and answer the charges against him. The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred, may have a summons issued by the clerk of the city court, or may seek the assistance of a police officer to witness the violation. The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided for in citations in lieu of arrest in non-traffic cases. (as added by ord. No. 409 and amended by ord. No. 413)

10-303. Failure to appear. It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued. (as added by ord. No. 409 and amended by ord. No. 413)

TITLE 11

PLANNING AND ZONING

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. AIRPORT ZONING ORDINANCE.
4. FLOODPLAIN ZONING ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION¹

SECTION

- 11-101. Creation and membership.
11-102. Organization, powers, duties, etc.
11-103. Additional powers.

11-101. Creation and membership. Pursuant to the provisions of section 13-4-101 of the Tennessee Code Annotated there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of nine (9) members; two of these shall be the mayor and a councilman selected by the city council; the other seven (7) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the seven (7) members appointed by the mayor shall be for three (3) years each. Of the seven (7) members to be first appointed by the mayor, as authorized by this section, one (1) member shall be appointed for one (1) year, three (3) members shall be appointed for two (2) years, and the other three (3) members shall be appointed for three (3) years so that the term of at least one (1) member expires each year. The term of office for each of the seven (7) members to be appointed initially shall begin as of October 1, 1973. The term of all future appointments under this ordinance shall begin as of October 1st in succeeding years.

The terms of the mayor and the councilman shall run concurrently with the mayor's term of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1979 code, § 11-101)

11-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions and duties in accordance with title 13 of the Tennessee Code Annotated. (1979 code, § 11-102)

¹Article VII, section 7.070 of the Zoning Ordinance for the City of Shelbyville, Tennessee was replaced by Ordinance #2013-925, July 2013, "Board of Zoning Appeals" and is available for review in the city recorder's office.

11-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1979 code, § 11-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

11-201. Land use to be governed by zoning ordinance.

11-201. Land use to be governed by zoning ordinance. Land use within the City of Shelbyville shall be governed by Ordinance Number 2014-937, titled "Zoning Ordinance of Shelbyville, Tennessee," and any amendments thereto.¹

¹Ordinance No. 2014-937, March 2014, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

AIRPORT ZONING ORDINANCE¹

SECTION

- 11-301. Short title.
- 11-302. Definitions.
- 11-303. Airport zoning map.
- 11-304. Zones.
- 11-305. Height limits.
- 11-306. Use restrictions.
- 11-307. Variances.
- 11-308. Permits.
- 11-309. Hazard marking and lighting.
- 11-310. General provisions.
- 11-311. Appeals.
- 11-312. Administrative agency.
- 11-313. Board of zoning appeals.
- 11-314. Amendments.
- 11-315. Penalties.

11-301. Short title. This chapter shall be known and may be cited as the "Airport Zoning Ordinance of the Shelbyville Municipal Airport." (1979 code, § 11-1101)

11-302. Definitions. As used in this chapter, unless the context otherwise requires:

- (1) "Airport" means "Bomar Field," the Shelbyville Municipal Airport.
- (2) "Airport hazard" means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at the airport or is otherwise hazardous to such landing or taking-off of aircraft.
- (3) "Non-conforming use" means any structure, tree, or use of land which does not conform to a regulation prescribed in this chapter or an amendment thereto, as of the effective date of such regulation.

¹It is the intention of the city council in adopting this chapter merely to continue in effect the provisions of ordinance No. 105 as amended to date. It expressly is not the intention of the city council to hereby enact any new airport zoning regulations.

For provisions relating to the Shelbyville Airport Authority see title 1, chapter 9.

(4) "Person" means any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(5) "Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(6) "Landing area" means the area of the airport used for the landing, take-off, or taxiing of aircraft.

(7) "Tree" means any object of natural growth. (1979 code, § 11-1102)

11-303. Airport zoning map. In order to outline definitely the horizontal and vertical limits beyond which the projection of any structure or tree will constitute an airport hazard, the Airport Zoning Map, dated January 26, 1965, of Lag Field, Shelbyville Municipal Airport, Shelbyville, Tennessee, of record in the office of the city recorder, is hereby incorporated into this chapter and made a part hereof.

(1) The established elevation of the airport is 802 feet above mean sea level

(2) The airport reference point is established at a location described as follows: The exact center of the main runway. (1979 code, § 11-1103)

11-304. Zones. In order to carry out the purposes of this chapter, airport approach surface zones, horizontal surface zones, conical surface zones, and transitional surface zones are hereby established as hereinafter defined and as shown on the airport zoning map.

(1) Approach surface zone. The approach surface zone is an inclined plane located directly above the approach area. The dimensions of the approach area are measured horizontally. The approach areas for each particular runway are symmetrically located with respect to the extended runway center lines and have lengths and widths as shown on the airport zoning map, which also shows the slopes of the respective approach surface zones.

(2) Horizontal surface zone. The horizontal surface zone is a plane, circular in shape, with its height 150 feet above the established airport elevation and having a radius from the airport reference point as indicated on the airport zoning map.

(3) Conical surface zone. The conical surface zone extends upward and outward from the periphery and outward from the horizontal surface zone with a slope of 20:1 measured in a vertical plane passing through the airport reference point. Measuring radially outward from the periphery of the horizontal surface zone, the conical surface extends for a horizontal distance as shown on the airport zoning map.

(4) Transitional surface zones. The transitional surface zones are inclined planes with a slope of 7:1, measured upward and outward in a vertical plane at a right angle to the center line of the runway. The transitional surface

zones, symmetrically located on either side of the runway, extend upward and outward from a line on either side of the runway which is parallel to and level with the runway center line. These parallel lines are at a horizontal distance from the runway center line equal to one-half of the minimum width of each approach area as shown on the airport zoning map. (1979 code, § 11-1104)

11-305. Height limits. Except as otherwise provided in this chapter, no structure, or tree shall be erected, altered, allowed to grow, or maintained so as to penetrate the plane which composes the airport approach surface zone, horizontal surface zone conical surface zone or transitional surface zone, by being of a height in excess of the height limits herein established for such zone. For purposes of this regulation, height limits shown on the airport zoning map are hereby established for each of the zones in question. Notwithstanding any other provisions of this chapter to the contrary, the height limits prescribed by this chapter shall not establish for any particular parcel of land at any particular point within such parcel, a height limit of less than sixty (60) feet above the surface elevation of the land at that point. (1979 code, § 11-1105)

11-306. Use restrictions. Notwithstanding any other provisions of this chapter, no use may be made of land within any airport approach surface zone, horizontal surface zone, conical surface zone, or transitional surface zone, in such manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking-off, or maneuvering of aircraft. Except as otherwise provided in this chapter, it shall be unlawful to put on land located within an airport approach surface zone, horizontal surface zone, conical surface zone, or transitional surface zones the following: Churches and other places of worship; clubhouses and other meeting planes; community center buildings; gymnasiums or stadiums; libraries; schools; colleges; hospitals; sanitariums or other public, semi-public, or private educational, health, or welfare institutions or facilities; and any governmental office or building, the facilities of which involves the concentration of people. (1979 code, § 11-1106)

11-307. Variances. Any person desiring to erect any structure or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this chapter, may apply for a variance therefrom. Such variance shall be allowed where a literal application of enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but substantial justice and be in accordance with the spirit of this chapter. (1979 code, § 11-1107)

11-308. Permits. (1) Future uses. No material change shall be made in the use of land, and no structure or tree shall be erected, altered, planted, or otherwise established in any airport approach surface zone, horizontal surface zone, conical surface zone, or transitional surface zone, unless a permit therefor shall have been applied for and granted. Each such application shall indicate the purpose for which the permit is desired with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit applied for shall be granted.

(2) Existing uses. Before any existing use, structure, or tree may be replaced, substantially altered, or repaired, rebuilt, allowed to grow higher, or replanted within any airport approach surface zone, horizontal surface zone, conical surface zone, or transitional surface zone which would violate any of the within set forth provisions a permit must be secured authorizing such replacement, change, or repair. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation than it was on the effective date of these provisions or than it is when the application for a permit is made. Except as indicated, all applications for a permit for the replacement, change, or repair of any existing use, structure, or tree shall be granted. (1979 code, § 11-1108)

11-309. Hazard marking and lighting. Any permit or variance granted under section 11-307 or 11-308 may, if such action is deemed advisable to effectuate the purposes of this chapter and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Shelbyville Airport Commission, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard. (1979 code, § 11-1109)

11-310. General provisions. Nothing in this chapter is intended to prohibit the normal and ordinary domestic and/or farm use of electrical tools, appliances, or lighting in the various zones hereinbefore designated. It is further provided that existing uses, structures, or trees in existence on the date of the passage of these provisions and constituting violations of same at that time, are excepted provisions hereof; but this exception does not apply to existing trees which may hereinafter become a violation. (1979 code, § 11-1110)

11-311. Appeals. (1) Any person aggrieved, or any taxpayer affected, by any decision of the City of Shelbyville made in the administration of this chapter, or the Shelbyville Airport Commission, if of the opinion that a decision of the chief enforcement officer is an improper application of this chapter may appeal to the board of zoning appeals for which provision is made in section 11-313.

(2) All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the board, by filing with the board of zoning appeals a notice of appeal specifying the grounds thereof. The chief enforcement officer shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the chief enforcement officer certifies to the board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by order of the board on notice to the chief enforcement officer and on due cause shown.

(4) The board shall fix a reasonable time for the hearing of the appeal, give public notice, and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(5) The board may, in conformity with the provisions of this chapter, reverse or affirm wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made.

(6) The board shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, or affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this chapter.

(7) The concurring vote of a majority of the members of the board shall be sufficient to reverse any order, requirement, decision, or determination of the chief enforcement officer, or to decide in favor of the applicant on any matters upon which it is required to pass under this chapter, or to affect any variation in this chapter. (1979 code, § 11-1111)

11-312. Administrative agency. The city building inspector is hereby designated the administrative agency charged with the duty of administering and enforcing the regulations herein prescribed. The duties of the city building inspector shall include that of hearing and deciding all applications for permits under section 11-308, but the city building inspector shall not have or exercise any of the powers or duties herein delegated to the board of zoning appeals. (1979 code, § 11-1112)

11-313. Board of zoning appeals. (1) The board of zoning appeals, heretofore created,¹ shall have and exercise the following powers:

¹See the city's zoning ordinance of record in the recorder's office.

(a) To hear and decide appeals from any order, requirement, decision or determination made by the city building inspector in the enforcement of this chapter;

(b) To hear and decide special exceptions to the terms of this chapter upon which such board may be required to pass by subsequent ordinances;

(c) To hear and decide specific variances under section 11-308.

(2) The board shall adopt additional rules for its governance and procedure in harmony with the provisions of this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the board shall be public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the board and shall be a public record. (1979 code, § 11-1113)

11-314. Amendments. The city council of the City of Shelbyville may from time to time amend the boundary, shape, or regulations of any zone or any other provision of this chapter. No such amendment shall become effective unless the same is first submitted for the review of the Shelbyville Municipal Airport Commission and for approval, disapproval, or suggestions to the City of Shelbyville Planning Commission. If said planning commission within thirty (30) days disapproves any such submission, it shall require the favorable vote of a majority of the entire membership of the city council to become effective. If the planning commission neither approves or disapproves such proposed amendment within thirty (30) days after such submission, the action on such amendment by the commission shall be deemed favorable. Upon the introduction of an amendment, the city recorder shall be instructed to publish a notice for such a request for an amendment together with a notice of the time set for public hearing by the city council on the requested change. The notice shall be published one (1) time in a newspaper of general circulation. Action on the proposed amendment by the city council shall take place no sooner than fifteen (15) days after the date of publication of such notice. (1979 code, § 11-1114)

11-315. Penalties. Each violation of this chapter or of any ordinance, or regulation, order, or ruling promulgated hereunder shall be punishable by a fine under the general penalty clause for this code. (1979 code, § 11-1115)

CHAPTER 4

FLOODPLAIN ZONING ORDINANCE

SECTION

11-401. Statutory authorization, findings of fact, purpose and objectives.

11-402. Definitions.

11-403. General provisions.

11-404. Administration.

11-405. Provisions for flood hazard reduction.

11-406. Variance procedures.

11-407. Legal status provisions.

11-401. Statutory authorization, findings of fact, purpose and objectives.

(1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, §§ 13-7-201 through 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Shelbyville, Tennessee, Mayor and City Council do ordain as follows:

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

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

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood proofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. 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 floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this ordinance are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood prone areas;

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

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

(h) To establish eligibility for participation in the NFIP. (as replaced by Ord. #2014-932, Jan. 2014)

11-402. Definitions. 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" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

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

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

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

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

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

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

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

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

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

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

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

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

(9) "Building" see "structure."

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

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

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

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

(14) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

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

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

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

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

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

(a) The overflow of inland or tidal waters.

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

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

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

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

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

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

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

(25) "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.

(26) "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.

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

(28) "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.

(29) "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.

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

(31) "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.

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

(33) "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.

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

(35) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the City of Shelbyville, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

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

(ii) Directly by the Secretary of the Interior.

(36) "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.

(37) "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.

(38) "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.

(39) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(40) "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.

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

(42) "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 the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

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

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

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

(46) "100-year flood" see "base flood."

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

(48) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(49) "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;

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

(50) "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.

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

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

(53) "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.

(54) "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 include 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.

(55) "State coordinating agency" the Tennessee Department of Economic and Community Development, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(56) "Structure" for purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

(57) "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.

(58) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(59) "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.

(60) "Variance" is a grant of relief from the requirements of this ordinance.

(61) "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.

(62) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (as added by Ord. #2014-932, Jan. 2014)

11-403. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of the City of Shelbyville, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Shelbyville, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers:

47003C0189E; 47003C0190E; 47003C0200E; 47003C0282E; 47003C0301E; 47003C0302E; 47003C0303E; 47003C0304E; 47003C0306E; 47003C0310E

dated 08/02/2007, 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) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This 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) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this 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 Shelbyville, 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. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Shelbyville, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #2014-932, Jan. 2014)

11-404. Administration. (1) Designation of ordinance administrator. The codes director is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 11-405(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When flood proofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When flood proofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the

lowest floor elevation or flood proofing level upon the completion of the lowest floor or flood proofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 11-404(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been flood proofed, in accordance with § 11-404(2).

(h) When flood proofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 11-404(2).

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the

location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Shelbyville, Tennessee FIRM meet the requirements of this ordinance.

(k) Maintain all records pertaining to the provisions of this ordinance 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. #2014-932, Jan. 2014)

11-405. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;

(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 non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 11-405(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 11-405(1) are required:

(a) Residential Structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 11-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or flood proofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or flood proofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 11-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be flood proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 11-404(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

- (C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- (ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- (iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 11-405(2).
- (d) Standards for manufactured homes and recreational vehicles.
 - (i) All manufactured homes placed, or substantially improved, on:
 - (A) Individual lots or parcels;
 - (B) In expansions to existing manufactured home parks or subdivisions; or
 - (C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
 - (ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - (A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or
 - (B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 11-402).
 - (iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 11-405(1) and (2).
 - (iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - (v) All recreational vehicles placed in an identified special flood hazard area must either:
 - (A) Be on the site for fewer than one hundred eighty (180) consecutive days;
 - (B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by

quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivision and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation (see § 11-405(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 11-403(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective Flood Insurance Study for the City of Shelbyville, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 11-405(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevation but without floodways designated. Located within the special flood hazard areas established in § 11-403(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 11-405(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 11-403(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 11-405(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or flood proofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 11-402). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 11-404(2). Openings sufficient to facilitate automatic equalization of hydrostatic

flood forces on exterior walls shall be provided in accordance with the standards of § 11-405(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20') whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Shelbyville, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 11-405(1) and (2). Within approximate A Zones, require that those subsections of § 11-405(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 11-403(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' to 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 11-405(1) and (2) apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 11-405(2).

(b) All new construction and substantial improvements of non-residential buildings may be flood proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood proofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and

hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be flood proofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 11-404(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 11-403(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 11-404 and 11-405 shall apply.

(8) Standards for unmapped streams. Located within the City of Shelbyville, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 11-404 and 11-405. (as added by Ord. #2014-932, Jan. 2014)

11-406. Variance procedures. (1) Municipal board of zoning appeals.

(a) Authority. The City of Shelbyville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times, as the board shall determine. All meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

(c) Appeals; how taken. An appeal to the municipal board of zoning appeals 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 municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of (amount) dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than (number of) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Shelbyville, Tennessee Municipal Board of Zoning Appeals 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 as defined herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals 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 use;

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

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

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

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

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

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the municipal board of zoning appeals 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) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 11-406(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (as added by Ord. #2014-932, Jan. 2014)

11-407. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Shelbyville, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. 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. #2014-932, Jan. 2014)

TITLE 12

STREETS AND OTHER PUBLIC WAYS AND PLACES¹

CHAPTER

1. WORK AFFECTING STREETS AND SIDEWALKS, ETC.
2. CONSTRUCTION AND REPAIR OF STREETS AND SIDEWALKS.
3. MISCELLANEOUS PROVISIONS RELATING TO STREETS, ETC.
4. DRIVEWAY ENTRANCES.
5. ACCEPTANCE OF LOCAL STREETS AS PUBLIC ROADS.

CHAPTER 1

WORK AFFECTING STREETS AND SIDEWALKS, ETC.

SECTION

- 12-101. Permit required for work affecting streets, etc.
- 12-102. Application for a permit; permit fee.
- 12-103. Issuance or refusal of permit.
- 12-104. Making the street or road cut.
- 12-105. Warning signs.
- 12-106. Closing the street or road cut.
- 12-107. Cutting or breaking of curbs and gutters.
- 12-108. Enforcement of chapter.
- 12-109. Misdemeanor to do work without a permit.
- 12-110. Public utilities, franchises, etc., bond required in lieu of cash deposit.

12-101. Permit required for work affecting streets, etc. All persons shall be required to apply for and obtain a permit, in the manner hereinafter stated, prior to:

(1) The installation or the performance of any work preparatory to the installation of any telephone or telegraph poles, lines, conduits or other fixtures or things along, over, in or under any public place in the city;

(2) The making of any repair or addition to, or any improvement or change in any building within fifteen (15) feet of, or along, over, in, or under any public street, road, alley, pavement or other public place in the city;

(3) The making of any change in the grade, construction, or in any other respect, of any pavement or sidewalk or the building or construction of any pavement or sidewalk abutting or along any public street, road, alley, pavement, or other public place or any property in the city;

¹See title 9 in this code for related motor vehicle and traffic regulations.

(4) The installation or the performance of any work preparatory to the installation of any gas, water, sewer, or other pipe or fixture or thing whatsoever along, over, in, or under any public street, road, alley, pavement or other public place in the city, and;

(5) The installation, construction, building, repair, or maintenance of any other thing whatsoever along, over, in, or under any public street, road, alley, pavement, or other public place in the city. (1979 code, § 12-101)

12-102. Application for a permit; permit fee. (1) Any person desiring a permit under the preceding section shall submit to the director of public works, no less than twenty-four (24) hours prior to the scheduled performance or performance of any work, plans and specifications for the doing of any of the things enumerated in such section proposed to be done and shall. apply for a permit to do the work set forth in the plans and specifications.

(2) A fee in the sum of fifty dollars (\$50.00) shall be charged for each permit and shall be paid at the time of the issuance of said permit.

(3) Each permit issued shall only authorize the cutting of a street or road one (1) time; and for each additional cutting of a street, even if on the same street or road and/or in the same general vicinity, an additional permit shall be required. (1979 code, § 12-102, modified, as amended by Ord. #875, July 2009)

12-103. Issuance or refusal of permit. The city manager shall grant the permit if, in his opinion:

(1) The work proposed to be done and called for in the plans and specifications shall be sound, safe, and in accordance with approved and accepted standards;

(2) Such work will not materially and adversely affect the public health, safety, and welfare;

(3) Such work is not of such a character as likely to cause, or tend to cause, create, or result in a public or private nuisance;

(4) Existing pavements, bases, curbs and walks shall be cut and brought to a neat line by mechanically sawing or by use of an air hammer. Expansion joints removed shall be replaced;

(5) If permanent pavement repairs cannot be made within five (5) days, then temporary replacement shall be made with two inches (2") cold mix or hot bituminous seal coat over compacted crushed stone;

(6) All trenches with eighteen inch (18") pipe or smaller will be backfilled with compacted crushed stone and trenches for pipe larger than eighteen inches (18") may be backfilled with suitable compacted material other than crushed stone. The backfill material must be approved by the director of public works;

(7) Backfill for trenches within roadway areas shall be placed in 6 inch layers and each layer shall be thoroughly compacted by means of mechanical tamp;

(8) Materials and workmanship shall comply with "Standard Specifications for Road and Bridge Construction" issued by the Tennessee Department of Transportation. All work is subject to inspection and approval by the director of public works;

(9) Trenches under roadways above utility lines shall be backfilled with a minimum of six inches (6") of crushed stone above the utility line, and a minimum of one foot (1') of excavatable flowable concrete below the paving grade. Asphalt shall be replaced at a depth matching the existing asphalt depth in the street. Pavement will be removed for a minimum of one foot (1') on each side of the trench. The patch shall be finished so as not to leave a bump or dip in the finished grade;

(10) The person, firm or corporation to whom the permit is issued shall deposit with the director of public works the amount of five hundred dollars (\$500.00) as a cash bond and as a guarantee that all work shall be done in a workmanship manner and that the backfilling of the ditch shall be done as prescribed by this section;

(11) When the work is satisfactorily completed and has been inspected by the director of public works then the five hundred dollar (\$500.00) deposit will be returned to the permit holder. On the other hand, if the work is not satisfactorily accomplished and said permit holder does not desire to make the work satisfactory, as required by the director of public works, then the City of Shelbyville may proceed to perform the backfilling and the paving in a workmanship manner so as same will comply with the specifications of this amendment and whatever costs are incurred by the city shall be paid out of the five hundred dollar (\$500.00) deposit made by the permit holder;

(12) The permit holder shall cut one half of the street and proceed to backfill same prior to cutting the other one half of said street in order that traffic may flow freely at all times and said permit holder shall never completely block any city street, road or alley, at any time but shall always leave at least one lane of said street, road, or alley open to the traveling public; and

(13) In the event any permit holder desires to cut any public street, road, or alley, in other than a perpendicular direction from the curb or right-of-way of said street, road or alley, such permit holder shall specifically apply for permission to the director of public works who shall inspect the area where the work is proposed to be performed and said director of public works shall require a deposit of a sum of money of forty dollars (\$40.00) per running foot, and said permit holder shall be required to backfill and pave in exactly the same manner as the cut for a perpendicular direction from the curb or right-of-way of said street, road or alley.

(14) When issuing permits for street cuts required for major utility work, the director of public works may require the total repaving of any street or section of a street where the amount of patch work required is extensive relative to the total street or street section area.

Any applicant may appeal from the director of public works's action in refusing to grant a permit hereunder by filing a written request with the city manager for a review of his action. If the city manager after appeal refuses to grant the permit, the applicant may file a request for a review of the permit denial before the council at its next regular meeting following the date of the filing of such request. At any hearing before the council such applicant, or his authorized representative, shall have the right to appear and to present all pertinent facts concerning said application subject to such rules as may be prescribed by the council. No appeal shall lie from any action of the council upon such a request except to the extent as provided by statute for review of decisions of administrative boards or agencies. (1979 code, § 12-103, as amended by Ord. #875, July 2009)

12-104. Making the street or road cut. The person, agency, or organization obtaining said permit and cutting a city street or road shall complete the cut and make the necessary installation and/or repairs as quickly as possible so as not to unnecessarily impede the normal flow of traffic along said street- or road. In making the cut, as little damage as possible shall be done to the street or road. (1979 code, § 12-403)

12-105. Warning signs. The person, agency, or organization cutting a street or road shall erect appropriate warning signs along said street or road so as to advise the motoring public of the danger that exists by virtue of the work being accomplished in the street or road. (1979 code, § 12-404)

12-106. Closing the street or road cut. Immediately after all necessary work has been accomplished, the person, agency, or organization cutting streets or roads shall notify the superintendent of public works that the cut is ready to be closed. No cut shall be closed except by direction of, and under the supervision and instructions of, the superintendent of public works. (1979 code, § 12-405)

12-107. Cutting or breaking of curbs and gutters. It shall be unlawful for any person, firm or corporation, to cut, break, or destroy the curbing or gutters along and within the right-of-way of any permanently improved street in the city without having first obtained permission of the council and without thereafter conforming to such requirements or restrictions as may be placed upon such person, firm, or corporation at the time any such permission is granted by the council. (1979 code, § 12-105)

12-108. Enforcement of chapter. Except for the closing of streets or roads, which shall be under the direct supervision of the superintendent of public works, the city manager or his authorized representative(s) shall supervise and enforce the provisions of this chapter, including: the

establishment of necessary procedures for issuing permits, insuring that persons, agencies, or organizations cutting city streets or roads have the necessary permit, insuring the installation of adequate warning devices, and notifying appropriate departments of the city that could be directly affected by the interruption of traffic along said streets and roads in providing police, fire, ambulance, and other applicable emergency services. (1979 code, § 12-406)

12-109. Misdemeanor to do work without a permit. Any person undertaking to do or doing any work or thing enumerated in section 12-101 without first having applied for and obtained a permit shall be guilty of a misdemeanor. (1979 code, § 12-104)

12-110. Public utilities, franchisees, etc., bond required in lieu of cash deposit. Notwithstanding any of the sections herein, any public utility, franchisee or other public utilities qualified to conduct business in the City of Shelbyville, may, in lieu of cash requirements required herein, post with the city treasurer of the City of Shelbyville, a bond in the amount of \$25,000.00 payable to the City of Shelbyville, conditioned upon the faithful performance of any cutting of streets and sidewalks, either perpendicular or parallel. Each work project on streets and sidewalks must require a permit and be conditioned upon the requirements contained in sections 12-101 through 12-109. All cuts shall be monitored by applicants after work project completion, and, if necessary, bring cut to street level for a period of six (6) months. (as added by ord. No. 483)

CHAPTER 2

CONSTRUCTION AND REPAIR OF STREETS AND SIDEWALKS

SECTION

- 12-201. Duty of property owners to construct sidewalks.
- 12-202. Pavements or sidewalks to be of cement or concrete.
- 12-203. Repair of pavements or sidewalks by property owners.
- 12-204. City manager to supervise construction.
- 12-205. Failure of owner to comply with notice; construction by city.
- 12-206. Uniform width of pavements or sidewalks.
- 12-207. Construction or relocation of utility properties in streets to be paved.
- 12-208. New streets and roads to have base of crushed stone.

12-201. Duty of property owners to construct sidewalks. It shall be the duty of the owners of all lots or parts of lots within the corporate limits of the city to cause good and substantial sidewalks to be constructed along the entire extent of the front or side of such lots located on streets or avenues of the city, at such time as the council shall provide by resolution. The resolution shall provide for adequate notice in writing to be given to each property owner. (1979 code, § 12-201)

12-202. Pavements or sidewalks to be of cement or concrete. All pavements or sidewalks hereafter constructed within the city limits shall be built of cement or concrete, the grade, quality, and character of the materials used in the making of such cement or concrete to be approved by the city manager. (1979 code, § 12-202)

12-203. Repair of pavements or sidewalks by property owners. If any pavement or sidewalk already constructed shall become out of repair, the owner of the lot along which such pavement or sidewalk is constructed shall repair the same within thirty (30) days after the mailing of a written notice to such property owner by the city manager. (1979 code, § 12-203)

12-204. City manager to supervise construction. In order to insure durability and uniformity in the pavements or sidewalks of the city, the construction of the same shall be under the supervision and control of the city manager. (1979 code, § 12-204)

12-205. Failure of owner to comply with notice; construction by city. If the owner of any lot in the city shall fail or refuse to construct or repair any pavement or sidewalk, as required in this chapter, notice shall be given such owner by the city manager to construct or repair such pavement or sidewalk. If the owner fails or refuses to construct or repair such sidewalk and complete

the same within sixty (60) days from the date of such notice to him, then the city may contract with some suitable person, on the best terms that can be made, for the grading, constructing, paving, or repairing of such sidewalk and pay for the same, or the city may do the work itself, through its city manager. The amount so paid to others, or expended by the city in doing such work, shall be a lien upon such lot and shall constitute a charge against the owner of the ground in front of which such work shall be done, and may be enforced by attachment in law or equity, or recovered by suit in the name of the city before any court of competent jurisdiction. (1979 code, § 12-205)

12-206. Uniform width of pavements or sidewalks. All pavements or sidewalks hereafter constructed on any street in the city shall be of a uniform width with other pavements or sidewalks now located on such street. If such pavements or sidewalks vary in width, such newly constructed pavement or sidewalk shall, as near as practicable, correspond in width with the pavement or sidewalk lying nearest thereto. (1979 code, § 12-206)

12-207. Construction or relocation of utility properties in streets to be paved. Whenever the city undertakes to permanently pave any street or thoroughfare all abutting property owners and public utilities involved shall be notified in writing by the city manager of the proposed improvements at least sixty (60) days prior to the date of the undertaking of the construction thereof. Upon the receipt of such notice all abutting property owners and all such public utilities concerned shall be required within sixty (60) days from the date thereof to lay necessary sewers, extend water mains, gas mains or lines, or to change or alter the course of such existing sewers, mains or lines, within the right-of-way of any such permanent street to be constructed.

In the event of the failure or refusal of abutting property owners, or public utilities involved, to conform to the requirements of this section, and where it is necessary for the proper construction of said street to change utility lines, poles, sewers, mains, underground conduits or other utility installations, it shall be the duty of the city manager to contract with some suitable person or firm for the changing, installation, or alteration of any such poles, sewers, lines, or underground conduits, or to perform such work through the use of city employees and to keep an accurate record of the cost thereto. Such cost or expense so incurred, whether paid to others or expended by the city in doing such work, shall forthwith constitute a lien upon any abutting property or against the property of any public utility so involved or concerned, and may be enforced by attachment in law or equity, or recovered by a suit in the name of the city in any court of competent jurisdiction. (1979 code, § 12-207)

12-208. New streets and roads to have base of crushed stone. All newly developed streets and roads located within the City of Shelbyville shall have a base consisting of crushed stone, Grade "D," Class "A," compacted to six (6)

inches, and constructed as specified Tennessee Department of Highways' Standard Specifications for Road and Bridge Construction. (1979 code, § 12-208)

CHAPTER 3

MISCELLANEOUS PROVISIONS RELATING TO STREETS, ETC.

SECTION

- 12-301. Buildings fronting on streets to be numbered.
- 12-302. Obstructing streets or sidewalks generally.
- 12-303. Obstructing streets and sidewalks by dealers in automobiles, trucks, and other vehicles.
- 12-304. Warning lights on building materials or other obstructions in streets.
- 12-305. Removal of obstructions by police.
- 12-306. Placing or displaying goods, wares, and merchandise along streets, etc.
- 12-307. Sale of fruits, vegetables, etc., from vehicles or stands on streets.
- 12-308. Placing banners across streets.
- 12-309. Shows and entertainments upon streets.
- 12-310. Injuring or destroying trees.
- 12-311. Throwing articles into streets.
- 12-312. Removal of snow or ice.
- 12-313. Fires in streets or on sidewalks.
- 12-314. Dumping fire or burning cinders in streets.
- 12-315. Feeding animals on streets.
- 12-316. Animals or substances which are nuisances or may imperil life, health, or safety.
- 12-317. Barbed wire fences.
- 12-318. Placing glass, nails, etc., in streets.
- 12-319. Condition of vehicles hauling sand, dirt, gravel, etc.
- 12-320. Washing vehicles on streets.

12-301. Buildings fronting on streets to be numbered. The general manager of the Shelbyville Electric Power, Water, and Sewerage Board shall devise a uniform system for numbering all residences and business buildings fronting on city streets.

The owner of each building which fronts on a city street shall apply to the general manager for the assignment of a number for his building.

Upon assignment of such number the owner shall, as his own expense, see that the number is conspicuously displayed on his property so as to be easily readable from the street on which the building fronts. (1979 code, § 12-301)

12-302. Obstructing streets or sidewalks generally. It shall be unlawful for anyone to obstruct in any way any street, public place, or sidewalk except as authorized by law, and an obstruction within the meaning of this section shall be construed to mean to so occupy the sidewalk, street, or public place that the free use and enjoyment thereof by the public is, in any way, interrupted or

interfered with, or the free ingress or egress to or from any building fronting on any public thoroughfare is impaired. (1979 code, § 12-302)

12-303. Obstructing streets and sidewalks by dealers in automobiles, trucks, and other vehicles. Dealers in automobiles, trucks, and other vehicles shall not obstruct the streets and sidewalks of the city by storing automobiles, trucks, or other vehicles thereon, when the same are not in use. (1979 code, § 12-303)

12-304. Warning lights on building materials or other obstructions in streets. Every person who shall cause to be occupied any portion of any highway, street, alley, sidewalk, or other public place, with building materials or other obstructions, shall securely fasten a red light or other light approved by the city manager at the end of such building material or obstruction during the nighttime. Such danger lights shall be so fastened and secured that they cannot be blown away by winds or storms. In addition thereto, such persons shall cause to be placed along the street, alley, sidewalk, or other public place where such obstruction occurs, appropriate warning signs and flares so placed as to be clearly visible to approaching traffic a distance of one hundred (100) feet in either direction from said obstruction. During the nighttime lighted flares shall be placed at intervals of fifty (50) feet in either direction from said obstruction for a distance of at least one hundred (100) feet in each direction.

Every person who shall place or cause to be placed any obstruction as herein defined on any highway, street, alley, sidewalk, or public place shall see that the warning signs, lights, and flares herein required to be placed shall be clearly visible and that said flares shall burn during the entire nighttime.

It shall be unlawful for any person to break, molest, move, take, extinguish, or in any manner interfere with any warning signs or lighted flares required under the provisions of this section. (1979 code, § 12-304)

12-305. Removal of obstructions by police. Should any rocks, wood, lumber or other obstructions whatever be permitted to remain on the public square, or on any street or alley in the city without authority, it shall be the duty of the members of the police department to request the person so offending to remove same. If it shall not be forthwith removed, such offender shall be guilty of a misdemeanor, and it shall be the duty of the police department to remove the same. In addition to the misdemeanor penalty, the person offending shall be liable to pay the expenses of removing such rocks, lumber or other obstruction. (1979 code, § 12-305)

12-306. Placing or displaying goods, wares, and merchandise along streets, etc. It shall be unlawful and a misdemeanor for any person to place, leave, or display any goods, wares or merchandise of any kind whatsoever on any portion of the pavements along, outside of, or in front of any building or

storehouse or vacant lot located or facing on the public square or any street or other public thoroughfare within one block of the public square of the city. It shall also be unlawful and a misdemeanor for any such person to sell or offer for sale any such goods, wares or merchandise, while so placed, left or displayed.

This section shall not be construed or held to prohibit the placing or leaving of such goods, wares or merchandise in any portion of such pavements for such reasonable time as may be necessary, not exceeding in any event a period of two (2) hours, in loading or unloading such goods, wares and merchandise. (1979 code, § 12-306)

12-307. Sale of fruits, vegetables, etc., from vehicles or stands on streets. It shall be unlawful for any person to engage in the sale of fruits, vegetables, meats, medicines, produce, or other merchandise or commodities from vehicles or stands parked or placed upon the public square of the city, or upon any street of the city. (1979 code, § 12-307)

12-308. Placing banners across streets. It shall be unlawful for any person to place, or cause to be placed, any sign, banner, or streamer of any kind whatsoever in, across, or above any public square, street, or other public thoroughfare in the city, unless approved by the council. (1979 code, § 12-308)

12-309. Shows and entertainments upon streets. It shall be unlawful for any person to operate or conduct any show or entertainment upon the public square or in any street of the city, unless approved by the council. (1979 code, § 12-309)

12-310. Injuring or destroying trees. No person shall willfully break, cut down, injure, or destroy any tree which is now or may hereafter be planted within any public property or right-of-way of the city. However, this section shall not be construed to prevent the removal of any tree which may be so situated as to obstruct any street or sidewalk, or to prevent the owner of any lot upon which such tree is situated from removing trees situated upon his private property. (1979 code, § 12-310)

12-311. Throwing articles into streets. It shall be unlawful for any person to throw or cause to be thrown any article of any description into any of the streets, lanes, or alleys, or any part of the public square. (1979 code, § 12-311)

12-312. Removal of snow or ice. It shall be the duty of every owner or proprietor of any dwelling house, business house, or other house abutting on any public street, square, or avenue within the fire district of the city to remove or cause to be removed from the sidewalk immediately in front of his premises all snow and ice which may each day accumulate thereon. (1979 code, § 12-312)

12-313. Fires in streets or on sidewalks. It shall be unlawful to burn any leaves, trash, refuse matter, or other inflammable material on any public sidewalk or pavement or in any street within the corporate limits of the city. (1979 code, § 12-313)

12-314. Dumping fire or burning cinders in streets. It shall be unlawful to place, make, or dump any fire or burning cinders upon any street, alley, public way or square, the surface paving of which may be injured, damaged, or deteriorated by reason thereof, except for the purpose of preparing, removing, reconstructing or repairing such paving. (1979 code, § 12-314)

12-315. Feeding animals on streets. It shall be unlawful to feed any animal upon the public square or upon any street with provender or feed placed on or liable to be loosely scattered upon any street or square. (1979 code, § 12-315)

12-316. Animals or substances which are nuisances or may imperil life, health, or safety. No person shall take, carry, expose, or place in or upon any street, alley, or sidewalk any substance, animal, or thing which is or is likely to become a public nuisance, or which shall imperil the life, health, or safety of any person who is or may properly be in or on such street, alley, or sidewalk or which, through the giving off of odors or noises, shall be or become offensive, or injuriously affect the comfort and safety of persons using such street, alley, or sidewalk. (1979 code, § 12-316)

12-317. Barbed wire fences. It shall be unlawful for any person to erect a fence along any sidewalk in the city limits with barbed wire or a fence of any kind on which barbed wire is used. However, this section shall not be construed to prevent anyone from stretching a barbed wire on the top of any fence over seven (7) feet high to prevent anyone from climbing over such fence.

All fences described in the preceding paragraph are declared to be nuisances and dangerous to the public, and it shall be the duty of the owner of such fence to remove the same within five (5) days after due notice from the director of public works. (1979 code, § 12-317)

12-318. Placing glass, nails, etc., in streets. It shall be unlawful for any person to put or place, or cause to be put or placed, in or upon any street, lane, alley, or other public highway of the city any ashes, glass, crockery, scrap iron, nails, tacks or any other article which would be liable to injure or damage the tires or wheels of any vehicle. (1979 code, § 12-318)

12-319. Condition of vehicles hauling sand, dirt, gravel, etc. The owner of every vehicle employed in hauling any sand, dirt, gravel, earth, sawdust, manure, filth, stone, brick, or coal, over the public square, or over any of the

streets, lanes, or alleys of the city, shall have and keep the same in such tight and secure condition and the load so covered that such sand, dirt, gravel, loam, earth, sawdust, manure, filth, stone, brick, or coal shall not be scattered or suffered to fall on any part of the public square, or on any of the streets, lanes, or alleys aforesaid, or blown upon any passerby.

In addition to the penalty provided for violations of the provisions of this code, any person violating this section may be required, after written notice of any such violation from the city manager, to remove any sand, dirt, gravel, or other matter enumerated above from the public square and the streets of the city. In the event of his failure to so remove said matter, the city manager shall be authorized to have it removed and to assess the costs thereof against the violator. (1979 code, § 12-319)

12-320. Washing vehicles on streets. The washing of vehicles on the streets of the city is hereby declared to be a nuisance, and any person so doing shall be guilty of a misdemeanor. (1979 code, § 12-320)

CHAPTER 4

DRIVEWAY ENTRANCES

SECTION

12-401. Driveway and other entrances.

12-401. Driveway and other entrances. (1) All access providing ingress and egress onto the public way and located upon public properties within the right-of-way shall be subject to title 12, chapter 1, and therefore, require a permit.

(2) All required improvements or changes shall be constructed by accepted standards and practices of the city and under the supervision of the city manager, city engineer or authorized agent.

(3) Curbs, gutters and other drainage ditches located within subdivisions shall be governed by the Shelbyville Subdivision Regulations.

(4) All access in areas of a drainage swale or ditch must be constructed so as to provide positive drainage away from all buildings and coordinated within the general storm drainage pattern for the area. The integrity of the ditch or swale must be maintained sufficient to prevent erosion. All culverts or other structures to be constructed to provide said drainage shall be approved by the city manager, city engineer or authorized agent.

(5) Drainage as provided in subsection by city personnel. All drainage materials, including but not limited to culverts, structures, and tiles under driveways or other entrances, shall be at the expense of the property owner. The size of same shall be determined and approved by the city manager or city engineer in accordance with the municipal code and ordinances of the city. Labor and equipment to install the aforementioned shall be provided by the City of Shelbyville, and said installation shall be in accordance with 12-103 of the Shelbyville Municipal Code.

(6) Paving, black-topping or build-up in any curb or gutter adjacent the public way at the end of any driveway or entrance must be approved by the city manager, city engineer or authorized agent. Same shall be prohibited if the integrity of such drainage structure is not maintained.

(7) All work on any driveway or other entrance to private property by city personnel or involving city equipment must be on the city's right-of-way easement. Work of any kind by city personnel or equipment on private property must be with the express approval of the Shelbyville City Council. (1979 code, § 12-501)

CHAPTER 5

ACCEPTANCE OF LOCAL STREETS AS PUBLIC ROADS

SECTION

12-501. Roads to be constructed to subdivision specifications.

12-502. Recommendation for acceptance by city engineer.

12-503. Roads located in subdivisions.

12-504. Plan approval for subdivision roads.

12-501. Roads to be constructed to subdivision specifications. Any applicant proposing that any road be accepted as a public road which is to be publicly maintained shall construct such road to Shelbyville Subdivision Regulations specifications prior to the city's acceptance. (as added by ord. No. 459)

12-502. Recommendation for acceptance by city engineer. Road construction will be complete when approved by the city's engineer in a written recommendation to the legislative body that the road be accepted as a public road and the legislative body formally accepts said road. (as added by ord. No. 459)

12-503. Roads located in subdivisions. Any road located as part of a subdivision as defined by law shall be governed by Shelbyville Subdivision Regulations as adopted by the Shelbyville Municipal-Regional Planning Commission. (as added by ord. No. 459)

12-504. Plan approval for subdivision roads. The developer of a subdivision will submit, to the city's engineer for approval, detailed construction plans for the section or subsection of work to be considered prior to actual construction and no final plat shall be considered by the planning commission until the required plans have been approved. (as added by ord. No. 459)

TITLE 13

UTILITIES AND SERVICES¹

CHAPTER

1. ELECTRICITY, WATER, AND SEWERS.
2. GAS.

CHAPTER 1

ELECTRICITY, WATER, AND SEWERS

SECTION

13-101. Electric Power, Water, and Sewerage Board.

13-102. Violations of utility board's rules and regulations.

13-101. Electric Power, Water, and Sewerage Board. The Electric Power, Water, and Sewerage Board shall have exclusive management and control of the operation of the city's electric,² water,³ and sewer⁴ systems. (1979 code, § 13-101)

13-102. Violations of utility board's rules and regulations. It shall be unlawful for any person to violate any lawful rule or regulation of the Electric Power, Water, and Sewerage Board. (1979 code, § 13-102)

¹See title 4 in this code for the building and utility codes; see title 8 for related health and sanitation provisions.

See ordinance No.196 and Ord. No. 518 (Jan. 1995), of record in the recorder's office, the city's cable TV franchise.

See ordinance No. 422, of record in the recorder's office granting permission to South Central Bell Telephone Company to construct, maintain, and operate lines of telephone and telegraph in the City of Shelbyville.

²See the charter of this code for the act providing for the electric light and power distribution system. (Chapter number 465, Private Acts of 1939)

³See the charter of this code for the act providing for the waterworks system. (Chapter number 293, Private Acts of 1941)

⁴See the charter of this code for the act providing for the sewerage system. (Chapter 421, Private Acts of 1953)

CHAPTER 2

GAS

SECTION

- 13-201. To be furnished under franchise.
- 13-202. Title.
- 13-203. Definitions.
- 13-204. Authority.
- 13-205. Duration.
- 13-206. Construction requirements.
- 13-207. Construction safety requirements.
- 13-208. Required relocation or removal.
- 13-209. Construction restoration.
- 13-210. Hold harmless.
- 13-211. Regulation.
- 13-212. Limitation of authority.
- 13-213. Sale or transfer of system.
- 13-214. Franchise fee, term, renegotiation.
- 13-215. Severability.
- 13-216. Acceptance by company.
- 13-217. Successors.

13-201. To be furnished under franchise. Gas service shall be furnished for the city and its inhabitants under such franchise as the city council shall grant. (1979 code, § 13-201)

13-202. Title. This ordinance shall be known and may be cited as the "United Cities Gas Company Franchise Ordinance." (as added by ord. No. 370)

13-203. Definitions. For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "City" is the City of Shelbyville, Tennessee, a municipal corporation;

(2) "Company" is United Cities Gas Company, the grantee of the rights under this franchise, an Illinois and Virginia corporation, domesticated for the purpose of doing business within the State of Tennessee, with its principal place of business located at 5300 Maryland Way, Brentwood, Tennessee, 37027;

(3) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind. (1979 code, § 13-203)

13-204. Authority. There is hereby granted by the City of Shelbyville, Tennessee, to United Cities Gas Company, its successors and assigns, the right, authority, privilege and franchise to erect, construct, operate and maintain a system of gas mains, service pipes, regulator stations and all other necessary and appropriate equipment and facilities for the transmission and distribution of gas in, upon, across, along and under the highways, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways and other public grounds in the present or future corporate limits of the City of Shelbyville and in the environs of said city, and to import, transport, sell and distribute gas, whether natural, manufactured, or mixed, within the city and its environs, for the supplying and selling of said gas to said city, and the inhabitants, institutions, and businesses thereof; and for such purpose to construct, operate, maintain, renew, replace, repair, and extend all necessary gas mains, service pipes and other appliances, fixtures and facilities as may be necessary for said purposes, to-wit, the transmission, distribution and sale of such gas to said city and the inhabitants thereof, for domestic, commercial, industrial and institutional uses, and such other purposes for which it is or may hereafter be used. (1979 code, § 13-204)

13-205. Duration. This franchise and the rights herein granted shall take effect and be enforced from and after the effective date hereof, as required by law, and upon the filings, of acceptance by the company, and shall continue in force and effect for a term of twenty-five (25) years after the effective date. Provided, that if the acceptance is not filed within thirty (30) days after final passage of this ordinance, the provisions of this franchise shall be null and void. (1979 code, § 13-205)

13-206. Construction requirements. All gas mains, service pipes, fixtures, facilities and other appliances laid, constructed, maintained and operated by virtue of this franchise, shall be laid, constructed, maintained and operated in accordance with acceptable engineering practices and in full accord with any and all applicable engineering codes adopted or approved by the natural gas distribution industry and/or engineering profession and in accordance with any applicable statutes of the State of Tennessee, ordinances of the City of Shelbyville and the rules and regulations of the Tennessee Public Service Commission or of any other governmental regulatory commission, board or agency having jurisdiction over the company. Said facilities shall be so constructed as not to interfere with the drainage of said city, or interfere with or injure any street, sewer or other public improvement which said city has heretofore made or may hereafter make in, upon, across, along or under any highway, street, avenue, road, alley, lane, way, utility easement, parkway or other public grounds, or unnecessarily obstruct or impede such highway, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways or other public grounds of said city. (1979 code, § 13-206)

13-207. Construction safety requirements. When the highways, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways or other public grounds are opened or any other opening is made by the company within the city, whether the same be made for the purpose of laying, constructing, replacing or repairing the mains, pipes and other appliances and fixtures of said company, said company shall place and maintain all necessary safety devices, barriers, lights and warnings to properly notify all persons of any dangers resulting from such entrances, and shall comply with all safety regulations required by federal, state or local laws. (1979 code, § 13-207)

13-208. Required relocation or removal. In the event that at any time during the period of this franchise the city shall lawfully elect to alter, or change the grade of, any street, alley or other public ways in which the company is maintaining gas mains, pipes or other appliances and fixtures, the company, upon reasonable written notice by the city, shall remove, or change or relocate its mains, pipes, or other appliances and fixtures as necessary to conform to the proposed alteration. However, the company shall be reimbursed its relocation costs whenever such reimbursement is authorized by a federal or state statute, for either urban renewal development or street relocation. (1979 code, § 13-208)

13-209. Construction restoration. When any highway, street, avenue, road, alley, lane, way, utility easement, parkway or other public ground is entered by the company, the company shall, within a reasonable time, restore the same to its former condition as nearly as practicable in such a manner as to meet the requirements of title 12 of the Shelbyville Municipal Code and the specified approval of the city manager, city's engineer, codes inspector, or other responsible agent of the city, provided, however, that such approval shall not be unreasonably withheld. In the event the company shall fail to restore said streets, avenues, roads, alleys, lanes, ways, utility easements, parkways, or other public grounds to their former state, as nearly as practicable, the city may itself, after giving the company reasonable written notice, make restoration and charge the costs thereof to the company. (1979 code, § 13-209)

13-210. Hold harmless. The company shall, at all times, defend, indemnify and hold harmless the city from and against any and all claims for injury to any person or property by reason of the failure of the company or its employees to exercise due care and diligence in and about the installing and maintenance of said system, guarding trenches and excavations while said system is being installed or subsequent extensions, repairs or alterations are being made or generally in the operation and maintenance of said system, provided the company shall have been notified in writing of any claim against the city on account thereof, and shall have been afforded the opportunity fully to defend the same. (1979 code, § 13-210)

13-211. Regulation. The city and the company hereby agree that this ordinance shall, from time to time, be subject to rules and regulations adopted by the company and approved by the Tennessee Public Service Commission or any other regulatory body having jurisdiction thereof during the term of this franchise, and shall also be subject to all rules and regulations adopted and approved by the Tennessee Public Service Commission itself; and that all such rules and regulations shall be and become part of this ordinance to the same extent and with the same effect as if said rules and regulations were herein set forth in full. The company shall not be obligated or required to make any extension of distribution mains, except in accordance with the provisions relating thereto adopted or approved by the Tennessee Public Service Commission. (1979 code, § 13-211)

13-212. Limitation of authority. Nothing contained herein shall be construed as preventing the company from installing, placing, replacing, taking up, repairing or removing gas pipes, mains, service pipes or other devices for furnishing gas service from using any easements for gas service which are shown on any plat or plats of any portion of the city heretofore or hereafter platted or recorded, or any easement which may hereafter be created, granted or dedicated for any such utility purposes by any person, firm or corporation whatsoever. (1979 code, § 13-212)

13-213. Sale or transfer of system. No sale or transfer of the gas plant or system, or the transfer of any rights under this franchise shall be effective until the vendee, assignee or lessee has filed in the office of the city recorder an instrument, duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of this franchise, and agreeing to perform all the conditions thereof. (1979 code, § 13-213)

13-214. Franchise fee, term, renegotiation. The company shall continue to pay the inspection fee currently paid to the city under its prior franchises. In addition, the company shall pay an initial franchise fee in the amount of fifty thousand dollars (\$50,000). No franchise fee based on gross receipts shall be initially payable during the term of this franchise. However, the city reserves the option to reopen this section at the times set out below so as to provide for a franchise fee based on gross receipts from the sale of gas through the company's distribution system within the City of Shelbyville, or within its Shelbyville system within Bedford County should Tennessee law be changed to permit same. Said franchise fee, if negotiated in the future, shall become due and payable each year ninety (90) days from the end of the company's fiscal year, so long as the company shall supply and sell natural gas to the public within said city, or so long as this franchise is in effect. Any said franchise fee shall be treated and recovered as required by Tennessee Code Annotated, § 65-4-105, as it exists at the time of such renegotiation. in the event such a

franchise fee is negotiated, the city shall have access at all reasonable times to the appropriate books of the company for the purpose of ascertaining the amount due to the city, and the company shall furnish to the city an annual report showing the amount of its sales within its Shelbyville system.

This system may be reopened for the sole purpose of negotiating or renegotiating a franchise fee, on the following dates:

(1) 26th day of March, 1991 (five (5) years after the effective date of the franchise).

(2) 26th day of March, 1996 (ten (10) years after the effective date of the franchise).

(3) 26th day of March, 2001 (fifteen (15) years after the effective date of the franchise) .

(4) 26th day of March, 2006 (twenty (20) years after the effective date of the franchise).

In addition to the dates set out above, this section may be reopened in the event of a change in that portion of Tennessee Code Annotated, § 65-4-105, or any other provision of law that deals with the treatment and recovery of franchise fees, or in the event of any change in the governmental structure of the city and Bedford County.

In the event the city or the company shall desire a negotiation or revision of any franchise fee on any of the dates set out herein, it shall notify the other party in writing at least sixty (60) days prior to the appropriate reopening date. Said franchise fee may be initiated, increased, decreased, or otherwise modified, but if no change is agreed upon, the fee then in effect shall continue in effect.

Any fee agreed upon by the parties shall become effective on the first day of the month following said revision date and shall continue to be in full force and effect to the termination date of this franchise, unless same shall be further revised at a subsequent date as provided herein. Upon the revised franchise fee becoming effective in accordance with the provisions of this section, the fee in existence at that time shall be cancelled.

It is understood between the parties that the company's base rates (charges over and above purchased gas costs paid to the Company's pipeline suppliers) are uniform throughout the State of Tennessee. So long as no franchise fee is imposed hereunder, the company's base rates, plus taxes, in Shelbyville will be its lowest such rates within the State of Tennessee. (1979 code, § 13-214)

13-215. Severability . If any section or portion of any section of this ordinance shall hereafter be declared or determined by a court of competent jurisdiction to be invalid, the company, at its election (to be given to the city by notice in writing within thirty (30) days after any such declaration or determination) may ratify or confirm the remaining portions of this ordinance and upon such ratification or confirmation the remaining portions of this ordinance shall remain in full force and effect. (1979 code, § 13-215)

13-216. Acceptance by company. The company shall, within thirty (30) days after the passage of this ordinance, file with the City Recorder of the City of Shelbyville its unconditional acceptance of the terms and conditions of this ordinance signed by its president and, after the filing of such acceptance, this ordinance shall constitute a contract between the parties hereto and shall (subject to the rights and powers vested in and orders lawfully issued by the Tennessee Public Service Commission or such other regulatory body of the State of Tennessee as may hereafter succeed to the rights and powers of the Tennessee Public Service Commission) be the measure of the rights, powers, obligations, privileges and liabilities of the city and of the company. (1979 code, § 13-216)

13-217. Successors. All the privileges given and obligations created by this ordinance shall be binding upon the successors and assigns of the company. (1979 code, § 13-217)

ORDINANCE NO. 474

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF SHELBYVILLE, TENNESSEE:

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

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

WHEREAS the City Council of the City of Shelbyville, 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 "Shelbyville Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF SHELBYVILLE, 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 13, both inclusive, are ordained and adopted as the "Shelbyville Municipal Code," hereinafter referred to as the "Municipal Code."

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

Section 3. Ordinances saved from repeal. The repeal provided for in section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing or authorizing the establishment of a social security system or providing or changing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right

or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; any ordinance pertaining to the airport and its operations; nor shall such repeal affect any ordinance annexing territory to the city.

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

Section 5. Penalty clause. Unless otherwise specified, wherever in the municipal code, including the codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in the municipal code the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of the municipal code shall be punishable by a penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section 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.

When any person is fined for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such 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.¹

Each day any violation of the municipal code continues shall constitute a separate offense. (as amended by Ord. #655, Nov. 2000)

¹State law reference

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

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

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

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

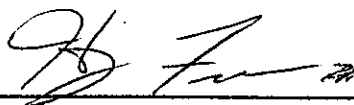
Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

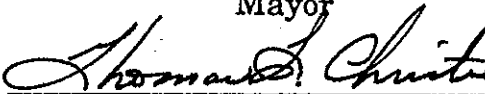
Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading 5-12, 1992

Passed 2nd reading 6-9, 1992

Passed 3rd reading 7-14-, 1992



Mayor


Recorder