

**THE  
SMITHVILLE  
CITY  
CODE**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

October 1996

Change 3, August 2, 2004

**CITY OF SMITHVILLE, TENNESSEE**

**MAYOR**

Cecil Burger

**VICE MAYOR**

Steve White

**ALDERMEN**

Aaron Meeks  
Brad Mullinax  
W. J. White  
Paul Young

**RECORDER**

Burnace Vandergriff

## PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.

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

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

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

Steve Lobertini  
Codification Specialist

**ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE  
CITY CHARTER**

SECTION 8. Be it further enacted, That the Board of Mayor and Aldermen shall, in passing of all ordinances, observe the following:

Said ordinances shall be submitted and passed on two separate readings at regular or specially called meetings of the Board, the second reading to be not less than one week and not more than two weeks from and after its first reading or introduction; and on each of said readings the ordinance or ordinances so submitted shall receive the affirmative vote of a majority of the Board and be signed by the Mayor before the same shall become effective; when an ordinance is introduced it shall be the duty of the Secretary and Treasurer to note on said ordinance the name of the person introducing the same, the date of its first passage and the date of its final passage, and the date approved by the Mayor. Said ordinance shall be divided into appropriate sections, shall be in brief but intelligible form, and shall, after passage, be recorded in a well-bound book, or printed upon durable paper, and a printed copy if ordered by the Board, and certified to by the Secretary and Treasurer, shall be received in evidence by the Courts of this State as competent evidence of the provisions of such ordinance.

**TITLE 1**

**GENERAL ADMINISTRATION<sup>1</sup>**

**CHAPTER**

- 1. GENERAL.
- 2. MAYOR.
- 3. SECRETARY AND TREASURER.

**CHAPTER 1**

**GENERAL**

**SECTION**

- 1-101. Administrative departments.
- 1-102. Each department to be under an alderman.
- 1-103. Time and place of board meetings.

**1-101. Administrative departments.** For administrative purposes the city shall have the following departments:

- Street and safety
- Police and fire
- Sanitation
- Finance and taxation
- Water and sewer

(1976 Code, § 1-101)

**1-102. Each department to be under an alderman.** Each department of the city government shall be under the immediate supervision of an alderman who shall be designated by the board to supervise that department.  
(1976 Code, § 1-102)

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<sup>1</sup>Charter references

See the charter index, the charter itself, and footnote references to the charter in the front of this code.

Municipal code references

- Building, plumbing, electrical and gas inspectors: title 12.
- Fire department: title 7.
- Utilities: titles 18 and 19.
- Wastewater treatment: title 18.
- Zoning: title 14.

**1-103. Time and place of board meetings.** (1) The regular monthly meetings of the governing body of the City of Smithville, Tennessee, shall be held on the first and third Mondays of each month at 7:00 p.m. in the city hall.

(2) All special meetings of the board shall be held at the same place as designated above for the holding of regular meetings and each and every special meeting shall be held upon the call of the appropriate official or officials, and in the form provided by statute, charter, ordinance, or resolution for calling special meetings, and each special meeting so called shall show the date, hour, and purpose of the meeting. The advance notice of said special meetings shall be as provided by statute, charter, ordinance, or resolution, as now provided by law, and the posting or publication of said special meetings shall be as hereinafter set forth.

(3) Adjourned or reconvened meetings shall be entered upon the minutes of the governing body of the City of Smithville, Tennessee, and shall show the time and place of such adjourned or reconvened meetings and shall be posted as hereinafter provided.

(4) The notice of special or adjourned or reconvened meetings shall be posted on the front door, or on a bulletin board, at the principal office of this governing body, which is the regular meeting place for said governing body, and this notice shall be posted by the chief executive officer, or under his supervision and direction, or such other official or officials, as may be provided by statute, charter, ordinance, or resolution, at the time said notice is given to the members of this governing body. After the holding of such special or reconvened meetings these notices shall be removed, preserved, and made a part of the records of this governing body as evidence of such notice having been given. The governing body may in addition, by appropriate proceedings entered of record on its minutes, direct such other or additional notice as it may determine to be necessary or advisable from time to time.

The chief executive officer of this governing body shall, himself, or under his direction, provide and keep copies of notices of said regular and special meetings and make them available to any and all persons who may request copies thereof.

(5) A true copy of this section, showing its adoption, or any changes, amendments, or modifications herein, shall be published at least one time each year in a newspaper having general circulation in DeKalb County, Tennessee, and at least one time annually over a radio station located within DeKalb County, Tennessee, with a copy of certification by said newspaper and radio station to be delivered to the governing body to be kept and preserved as a part of the records of the governing body aforesaid. (1976 Code, § 1-103)

## CHAPTER 2

### MAYOR<sup>1</sup>

#### SECTION

- 1-201. May require reports.
- 1-202. Executes city's contracts.
- 1-203. May suspend officers and employees.

**1-201. May require reports.** The mayor may require such reports from the various city officers and employees as he may reasonably deem necessary to enable him to efficiently carry out his executive responsibilities. (1976 Code, § 1-201)

**1-202. Executes city's contracts.** The mayor shall execute all city contracts authorized by the board. (1976 Code, § 1-202)

**1-203. May suspend officers and employees.** The mayor may suspend any appointed officer or employee of the city who is found to be, or is reasonably suspected of being, derelict in the performance of his duties or guilty of such misconduct as will likely reflect discredit upon the city. The mayor shall report any such suspension to the board at its next regular meeting for appropriate action. (1976 Code, § 1-203)

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<sup>1</sup>Charter references

Election: § 20.  
Powers and duties: § 6.  
Term of office: § 20.  
Veto power: § 6.

## CHAPTER 3

### SECRETARY AND TREASURER<sup>1</sup>

#### SECTION

1-301. To be bonded.

1-302. To keep minutes of board meetings.

1-303. To keep a roll-call book.

1-304. To keep financial records and make reports.

**1-301. To be bonded.** The secretary and treasurer shall be bonded in the sum of five thousand dollars (\$5,000). (1976 Code, § 1-301)

**1-302. To keep minutes of board meetings.** The secretary and treasurer shall keep a complete minute record of all proceedings at meetings of the board of mayor and aldermen. (1976 Code, § 1-302)

**1-303. To keep a roll-call book.** The secretary and treasurer shall keep the roll-call book required by § 7(4) of the charter. (1976 Code, § 1-303)

**1-304. To keep financial records and make reports.** The secretary and treasurer shall keep a complete record of all corporate money received and paid out and shall make a summary report from such record to the board at each regular monthly meeting. (1976 Code, § 1-304)

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<sup>1</sup>Charter references

Bond: § 15(2).

Duties: § 15.

Oath: § 15(3).

**TITLE 2**

**BOARDS AND COMMISSIONS, ETC.**

**CHAPTER**

**1. SMITHVILLE ELECTRIC POWER BOARD.**

**CHAPTER 1**

**SMITHVILLE ELECTRIC POWER BOARD**

**SECTION**

**2-101. Smithville electric power board.**

**2-101. Smithville electric power board.** A board of public utilities to be known as the "Smithville Electric Power Board" is hereby created and shall have five (5) members who shall be appointed and organized in accordance with Tennessee Code Annotated, title 7, chapter 52. The utility board shall have jurisdiction over the city's electric system and shall in all respects be subject to and governed and controlled by the provisions of Tennessee Code Annotated, title 7, chapter 52. (1976 Code, § 13-301)

## TITLE 3

### MUNICIPAL COURT

#### CHAPTER

1. JUDICIAL DEPARTMENT.
2. COURT ADMINISTRATION.
3. SUMMONSES.
4. BONDS AND APPEALS.
5. COURT FINES AND COSTS.

#### CHAPTER 1

### JUDICIAL DEPARTMENT<sup>1</sup>

#### SECTION

3-101. Judicial department.

**3-101. Judicial department.** In accordance with public act of the General Assembly of the State of Tennessee, the judicial department of the city shall be established and administered in the following manner.

(1) Number of judges. The board of mayor and aldermen ("board") shall establish from time to time, by ordinance, the number of persons who shall serve as city judge(s). By this chapter such number is established as one (1).

(2) Qualifications and term. All persons serving as city judge shall meet the qualifications established by the Tennessee Constitution, art. VI, § 4, to-wit: they shall be 30 years of age, shall before their election have been a resident of the state of Tennessee for five years and of the city for one year, and shall be elected by the qualified voters of the city for a term of service of eight years,

(a) except for certain instances in which a person(s) may be appointed as city judge(s) for a term which shall expire after the next applicable regular August general election, and

(b) except for any initial term of elected service which may be shorter, all as provided hereinafter. Further, such person must be a practicing attorney, licensed in the State of Tennessee, and in good standing in all of the Courts in the State of Tennessee.

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<sup>1</sup>Charter reference

Judicial commissioner: § 14.

Pursuant to Tennessee Code Annotated, § 16-18-201, the provisions of this chapter are provided as an alternative to Priv. Acts 1993, ch. 102, which contains charter provisions relating to the city judge.

(3) Jurisdiction and powers. The jurisdiction of the city judge(s) shall extend to the trial of all offenses against the ordinances of the city and concurrently with the Court of General Sessions of DeKalb County, Tennessee, for violation of the criminal laws of the state. Costs in trials of offenses against the ordinances of the city shall be provided by ordinance. Costs in other matters shall be established under general laws of the state of Tennessee.

The city judge(s) shall have the power to levy fines, penalties and costs, to issue all necessary process, to administer oaths, and to maintain order, including the power to punish for contempt by fine of confinement not exceeding the limits provided by general laws.

(4) Bail. The bail of persons arrested and awaiting trials and persons appealing the decision of a city judge shall be fixed by the city judge and upon such security as in his discretion he deems necessary or as otherwise may be provided by ordinance or general law.

(5) Separation of powers. The city judge(s) shall be the exclusive judge of the law and facts in every case before him and no official or employee of the city shall attempt to influence his decision except through pertinent facts presented in court.

(6) Popular election of judge(s). The popular election of the city judge(s) is hereby chosen as an alternative to the present method of selecting the city judge(s) as set out in the charter of the city, and all city judges shall be popularly elected, subject to the provisions for initial appointments as provided for herein and appointments to fill any vacancy.

(7) Term; election procedure. The term of office of a city judge shall be eight years, except for any initial term that may be shorter as provided herein. Upon this ordinance becoming effective, the board may appoint a qualified person(s) to serve in the position of city judge(s) until the next regular August general election. The first city judge(s) popularly elected pursuant to this ordinance and state law shall be elected at the next regular August general election that takes place at least 30 days after this ordinance becomes effective. The person(s) elected in the aforesaid election shall serve only until replaced by a successor to be chosen at the next regular judicial election held in accordance with the Tennessee Constitution, art. VII, § 5. All subsequent elections for city judge pursuant to this ordinance and general law shall be held in accordance with the Tennessee Constitution, art. VII, § 5.

(8) Vacancy. A vacancy in the office of city judge shall be filled by appointment by the board. The person appointed, however, may serve only until the next regular August general election. At such election, a person shall be elected to serve any unexpired term if the full term of his successor is not to be filled at such election. In temporary absence or inability of a city judge, the board shall appoint a qualified person to serve until the judge's return.

(9) Compensation. The salary and any other benefits relating to the office of all city judges shall be established by the board by ordinance prior to

the commencement of the term of office and shall not be increased nor diminished during such term. The salary for the office of city judge is hereby fixed at \$800.00 per month. The salary shall be paid monthly from the general fund of the city.

(10) Records; docket; city clerk. The city does not elect, as permitted by the laws of the State of Tennessee, to require the city court clerk to be elected. The secretary/treasurer shall have the duty of maintaining all records of the city court in accordance with applicable laws. The board may employ on behalf of the city a person to assist him in this function and such person shall be designed a city court clerk. The board shall require the proper maintenance of the docket of the city court and other records of the court. Subject to general law and the authority of the city judge(s), the board shall fix the regular time for holding court. (Ord. #243, May 1993)

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

3-201. Maintenance of docket.

3-202. Disturbance of proceedings.

**3-201. Maintenance of docket.** The city judge shall keep a complete docket record of all causes coming before the city court. (1976 Code, § 1-703)

**3-202. Disturbance of proceedings.** It shall be unlawful for any person to create a disturbance of any trial before the city court by any loud or unusual noise or any indecorous, profane, or blasphemous language. (1976 Code, § 1-704)

**CHAPTER 3**

**SUMMONSES**

**SECTION**

3-301. Failure to obey summons, etc.

**3-301. Failure to obey summons, etc.** It shall be unlawful for any person to wilfully refuse, when legally summoned, to attend any trial or give testimony before the city judge in any cause pending before the city court. (1976 Code, § 1-705)

## CHAPTER 4

### BONDS AND APPEALS

#### SECTION

3-401. Deposit of license in lieu of bail.

**3-401. Deposit of license in lieu of bail.** Whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with a violation of any municipal ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of an operator's or chauffeur's license for any period of time, in a municipality having a city court or a county having a general sessions court, the municipality may by ordinance and the county may by resolution of its quarterly county court or other legislative body, allow such person to have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in any court of the municipality or county in answer to such charge before the court.

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

The clerk or judge of a court accepting the license shall thereafter forward to the Department of Safety, the license of a driver deposited in lieu of bail if the driver fails to appear in answer to the charge filed against him and which license shall not be released by the Department of Safety until the charge for which such license was so deposited has been disposed of by the court in which pending. In the case of a nonresident driver whose license is thus received by the Department of Safety, the department shall forthwith notify the proper motor vehicle administrative authority of the state in which such nonresident driver is licensed that the license of such driver is being held by the department pending disposition of the charge against such driver.

The licensee shall have his license in his immediate possession at all times when driving a motor vehicle and shall display it upon demand of any officer or agent of the department or any police officer of the state, county or municipality, except that where the licensee has previously deposited his license with the officer or court demanding bail, and has received a receipt from the officer or the court, the same to serve as a substitute for the license until the

specified date for court appearance of licensee or the license is otherwise returned to the licensee by the officer or court accepting the same for deposit. (Ord. #113, Dec. 1976)

## CHAPTER 5

### COURT FINES AND COSTS

#### SECTION

3-501. Litigation tax.

3-502. Assessment for electronic fingerprint imaging system.

3-503. State laboratory fee for blood alcohol determination.

3-504. State laboratory fee for drug/substance analysis.

3-505. City court fines and costs.

**3-501. Litigation tax.** In every case where the accused actually appears in court on the charged offense, the litigation tax shall be thirteen dollars and seventy-five cents (\$13.75) for each offense charged. (Ord. #281, Nov. 1998)

**3-502. Assessment for electronic fingerprint imaging system.** One dollar (\$1.00) will be added to the court costs in criminal cases to be earmarked for electronic fingerprint imaging systems for local law enforcement agencies. (Ord. #281, Nov. 1998)

**3-503. State laboratory fee for blood alcohol determination.** A fee of seventeen dollars and fifty cents (\$17.50) will be assessed to each defendant convicted of either driving under the influence of an intoxicant or adult driving while impaired where that defendant has submitted to a blood alcohol test. (Ord. #281, Nov. 1998)

**3-504. State laboratory fee for drug/substance analysis.** A fee of twenty dollars (\$20.00) will be assessed to each defendant convicted of any drug related offense(s) where laboratory analysis is required to identify substances existing either in the defendant's possession, or in the defendant's body. (Ord. #281, Nov. 1998)

**3-505. City court fines and costs.** A detailed listing of fines and court costs is attached hereto as Exhibit No. 1.<sup>1</sup>

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<sup>1</sup>Exhibit 1 to Ordinance No. 281 (Nov. 1998) is of record in the office of the recorder.

**TITLE 4****MUNICIPAL PERSONNEL**<sup>1</sup>**CHAPTER**

1. SOCIAL SECURITY.
2. PERSONNEL RULES AND REGULATIONS.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. INFECTIOUS DISEASE CONTROL POLICY.
5. TRAVEL REIMBURSEMENT REGULATIONS.
6. RETIREMENT SYSTEM FOR EMPLOYEES.
7. FAMILY AND MEDICAL LEAVE POLICY.
8. RULES OF CONDUCT.
9. GRIEVANCE POLICY
10. SEXUAL HARASSMENT PROHIBITED.
11. DRUG AND ALCOHOL TESTING.
12. EMPLOYEE PERSONALLY IDENTIFYING INFORMATION.
13. EXCAVATION SAFETY POLICE.

**CHAPTER 1****SOCIAL SECURITY****SECTION**

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports.
- 4-106. Personnel excluded from coverage.
- 4-107. Exclusion of election officials.

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of the city to provide for the employees and officials of the city, not excluded by law or this chapter, 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, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the city shall take

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<sup>1</sup>Ord. #188, as amended by Ord. #197 and Ord. #265, established personnel manning levels, wage scales, rules of conduct, etc. for city employees. These ordinances are of record in the office of the city recorder.

such action as may be required by applicable state and federal laws or regulations. (1976 Code, § 1-901)

**4-102. Necessary agreements to be executed.** The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1976 Code, § 1-902)

**4-103. Withholdings from salaries or wages.** Withholdings from the salaries or wages of employees and officials, for the purpose provided in § 4-101 hereof, 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. They shall be paid over to the state or federal agency designated by said laws or regulations. (1976 Code, § 1-903)

**4-104. Appropriations for employer's contributions.** There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1976 Code, § 1-904)

**4-105. Records and reports.** The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1976 Code, § 1-905)

**4-106. Personnel excluded from coverage.** There is hereby excluded from this chapter any authority to make any agreement with respect to emergency, part-time and fee basis employees and elective legislative officials as of January 1, 1952, or any employee or official authorized to be covered by any other ordinance creating any other retirement system for any employee or official of the city, or any employee or official not authorized to be covered by applicable federal or state laws or regulations. Acting under § 4-102 hereinabove contained, the mayor is directed to amend the Social Security Agreement so as to extend the benefits of the System of Federal Old Age and Survivors Insurance to include the services of part-time employees as of January 1, 1978 and to exclude the services performed by election officials and election workers if the remuneration paid for such services is less than \$100.00 in a calendar year, to be effective not earlier than the last day of the calendar quarter in which a modification to the agreement is mailed to the Federal Social Security Administration, pursuant to federal law. (Ord. #158, June 1981)

**4-107. Exclusion of election officials.** The mayor is authorized and directed to execute an amendment to said agreement of January 1, 1952 to

exclude from coverage under the Federal System of Old Age, Survivors, Disability, Health Insurance, the services of an election worker and an election official if the remuneration paid for such services in a calendar year is less than \$1,000 on or after January 1, 1995, and ending on or before December 31, 1999 and, the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any calendar year, commencing on or after January 1, 2000, with respect to services performed during any such calendar year. This exclusion to be effective in and after a calendar year in which a state's modification is mailed, or delivered by other means, to the appropriate federal official. (Ord. #256, March 1995)

## CHAPTER 2

### PERSONNEL RULES AND REGULATIONS

#### SECTION

- 4-201. Purpose.
- 4-202. Coverage.
- 4-203. Classes of employees.
- 4-204. Hiring procedures.
- 4-205. Separation and discipline.
- 4-206. Compensation.
- 4-207. Benefits.
- 4-208. Miscellaneous personnel policies.

**4-201. Purpose.** The purpose of this chapter is to establish a system of personnel administration in the City of Smithville that is based on merit and fitness. The system shall provide means to select, develop, and maintain an effective municipal work force through impartially applying personnel policies and procedures free of personal and political considerations and regardless of race, color, gender, age, creed, national origin, or disability. (Ord. #240, Aug. 1992, as amended by Ord. #261, March 1996; and replaced by Ord. #287, Aug. 1999)

**4-202. Coverage.** All offices and positions of the City of Smithville are divided into the classified service and the exempt service. The classified service shall include all regular full-time and regular part-time positions in the city/town's service unless specifically placed in the exempt service. All offices and positions of the City of Smithville placed in the exempt service are as follows:

- (1) All elected officials;
- (2) The city treasurer;
- (3) Members of appointed boards and commissions;
- (4) Consultants, advisors, and legal counsel rendering temporary professional service;
- (5) City attorney;
- (6) Independent contractors;
- (7) People employed by the municipality for not more than three months during a fiscal year;
- (8) Part-time employees paid by the hour of the day and not considered regular;
- (9) Volunteer personnel appointed without compensation;
- (10) City judge;
- (11) Police chief;
- (12) Fire chief;

(13) Department heads; and

All employment positions of the City of Smithville not expressly exempt from coverage by this section shall be subject to the provisions of the town charter. (Ord. #240, Aug. 1992, as amended by Ord. #260, March 1996; Ord. #261, March 1996; and replaced by Ord. #287, Aug. 1999)

**4-203. Classes of employee.** (1) Regular full-time. Regular full-time employees are individuals employed by the city who work more than 40 hours per week and have completed a 60 day probationary period. Regular full-time employees receive full benefits unless specifically excluded by the city charter, code, or ordinances.

(2) Regular part-time. Regular part-time employees are individuals who do not work on a daily basis and whose hours cannot exceed 32 hours per week unless approved by the department head. Regular part-time employees are excluded from all benefits afforded full-time employees.

(3) Temporary employee. A temporary employee is an individual who works for the city no more than seven months during one calendar year. Temporary employees receive no benefits.

(4) Temporary part-time employee. A temporary part-time employee is an individual who works up to 32 hours per week. Temporary part-time employees receive no benefits.

(5) Volunteer employee. A volunteer is an individual who works for the city for little or no compensation.

(6) Volunteer firefighters. Volunteer firefighters are selected by the fire chief. After successfully completing a 90 day probationary period and after approval of the fire chief, their continuance is subject to approval of the board of mayor and aldermen. Volunteer firefighters are compensated per fire-call with no other benefits except coverage under the Volunteer Firefighter's Insurance Coverage Policy. (Ord. #254, Aug. 1994, as replaced by Ord. #287, Aug. 1999)

**4-204. Hiring procedures.** (1) Purpose. The primary purpose of this hiring policy is to ensure compliance with the law and to obtain qualified personnel to serve the citizens of the city. Appointments to positions are based on merit, technical knowledge, and work experience. Persons shall not be employed, promoted, demoted, discharged, or in any way favored or discriminated against because of race, gender, age, color, religion, creed, ancestry, disability, or national origin. The city reserves the right to alter or change any or all of these rules without prior notice to employees.

(2) Recruitment. The city will employ only capable and responsible personnel who are of good character and reputation. When a vacancy occurs in any department, the position will be filled by promotion from a lower position within the organization, if a qualified employee is available. When

qualifications are considered equal, then the length of continuous service in the organization will be the determining factor for selection.

(3) Application process. All people seeking appointment or employment with the city shall complete a standard application form as provided by the municipal government. Employment applications shall be submitted to the treasurer's office during regular office hours only. The treasurer's office will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations.

(4) Interviews. Upon receipt of applications, the treasurer, commissioners, and mayor shall screen the applicants and determine the applicants who may be interviewed. All interviews shall be conducted in compliance with the American with Disabilities Act.

(5) Appointments. All appointments subsequent to the probationary period shall be made by the board of mayor and aldermen. Following a conditional offer of employment, every prospective employee, when required, may be given a medical examination and a general physical exam by a licensed physician designated by the City of Smithville to ensure they can perform the essential functions tested for in the medical examination shall have the offer of employment by the city withdrawn only if they:

- (a) Cannot perform the essential functions of the job due to a disability that cannot reasonably be accommodated;
- (b) Pose a threat to themselves and/or others;
- (c) Are unable to perform the essential functions due to a temporary condition or disability not protected by ADA.

(6) Citizenship and alien status verification. The city will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the city will not knowingly employ any person who is or becomes an unauthorized alien. In compliance with the Immigration Reform and Control Act, all employees hired after Nov. 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three days of employment or the individual will not be hired.

(7) Probation. Applicants appointed to positions with the City of Smithville are required to serve a 60 day probationary period. During this period, the employee's work performance will be subject to review regarding the competence of the employee to fill the position. An employee may be terminated during this period for any reason without respect or reference to the procedures set forth in this document, the charter, or other ordinance. If the probationary period is satisfactory, the employee may be recommended for a full-time appointment. The probationary period may be extended by written approval of the department head.

(8) Transfers. The board of mayor and aldermen may make transfers of employees or delegate this authority. A transfer may also be implemented as a reasonable accommodation when an employee is unable, due to a disability, to continue to perform the essential functions of the job.

(9) Promotions/demotions. The board of mayor and aldermen may make promotions/demotions of employees or delegate this authority. A demotion may also be implemented as a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job. (as added by Ord. #287, Aug. 1999)

**4-205. Separation and discipline.** (1) Types of separation. All separations of employees from city positions shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, layoff, death, retirement, dismissal, and the inability to perform the essential job functions with or without reasonable accommodation due to a disability. At the time of separation and prior to final payment, all records, assets, and other items of city property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation.

(2) Resignation. In the event an employee decides to leave the city's employ, a two-week notice shall be given to his/her supervisor so that arrangements for a replacement can be made. In such a case, employees will be expected to return any or all city equipment assigned. An unauthorized absence from work for a period of three consecutive working days may be considered by the department head as resignation. If a former employee returns to city employment, his/her status of seniority, pay, leave, etc. will be the same as any new employee beginning work for the first time.

(3) Layoff. The department head, upon approval from the mayor of board and aldermen, may lay off an employee in the city service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties or organization of the employee's position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the employee's service. Temporary employees shall be laid off before probationary or regular employees. The order of layoff shall be in reverse order to total continuous time served upon the date established for the layoff to become effective.

(4) Disability. An employee may be separated for disability when he/she cannot perform the essential functions of the job because of physical or mental impairment that cannot be accommodated without undue hardship or because the disability poses a direct threat to the health and safety of others. A reasonable accommodation may include transfer to a comparable position for which the individual is qualified. Action may be initiated by the employee or the municipality, but in all cases it must be supported by medical evidence acceptable to the mayor and board of aldermen, and the disability must prevent

the employee from performing the essential functions of the job. The city may require an examination as its expense to be performed by a licensed physician of its choice.

(5) Retirement. Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate retirement system.

(6) Death of the employee. Separation shall be effective as of the date of death of an employee. All compensation due in accordance with these rules shall be paid to the estate of the employee, except for such sums as by law must be paid to the surviving spouse.

(7) Dismissal. The City of Smithville may dismiss an employee for just cause that is for the good of the city service. Reasons for dismissal may include, BUT SHALL NOT BE LIMITED TO: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, violation of any of the provisions of the charter, ordinances, or these rules.

With the exception of a Reduction Force (RIF), full time employees and non-elected officials will be terminated only for "cause." When it has been determined that an employee's conduct warrants termination, the department head, with the concurrence of the mayor, will suspend the employee, without pay, until a hearing can be conducted. When an employee is suspended pending termination, a hearing will automatically be held within three (3) working days of the suspension. The hearing will be conducted by a board consisting of the mayor (chairman), department commissioner, and the secretary-treasurer. The employee will be afforded an opportunity to state his/her case and explain his/her position in the matter. At the conclusion of the hearing, the board will decide whether the suspension was warranted. In the event that it is determined that suspension was without just cause, the employee will be returned to work with full pay for the period of suspension. If the board upholds the suspension, the employee is terminated. If the employee is not satisfied with the action of the hearing board, the employee may, in writing, request a hearing before the board of mayor and aldermen at its next scheduled meeting.

In the event of the city judge, secretary-treasurer, city attorney, or the judicial commissioner, there shall be no suspension. If an allegation of the violation, of rules of conduct is made against any of these non-elected officials, it shall be the duty of the mayor to make an initial decision as to the validity of the allegation after an investigation. If the mayor determines that the allegation is without merit, the matter will be dismissed. If the mayor determines that the allegation has merit he shall present the matter to the board of aldermen, which shall afford the official involved an opportunity to present his position in the matter. At the conclusion of the hearing, the mayor and board of aldermen shall make its decision as to whether the allegation is without merit or well-founded, and thereafter take appropriate action to either discipline the official or dismiss the matter. (as added by Ord. #287, Aug. 1999)

**4-206. Compensation.** (1) Wage/salaries. The board of mayor and aldermen shall set all wages and salaries paid by the city. Due consideration shall be given to duties performed, responsibilities, technical knowledge and skills required to perform the work satisfactorily, the labor market, and availability of people having the desired qualifications.

(2) Hours of work. The board of mayor and aldermen shall establish the hours of work per week for each position in the service of the city. Employees unavoidably late or absent from work due to illness or other cause must notify their supervisor within the time frame established by each department (unless unusual circumstances prevent the employee from making proper notification). Such employees must explain the reason for the absence and, if possible, an anticipated time and date of return to work. Failure to notify one's supervisor of absences may result in disciplinary action. Employees found falsifying time sheets will be subject to disciplinary action up to and including dismissal. Excessive tardiness is regarded as sufficient reason for termination.

(3) Employee breaks. Employees are entitled to one 20 minute break per eight hour shift. The break is to be taken with approval from your supervisor, in a designated area, and at a designated time. Your supervisor will choose the proper time and place for rest breaks. Lunch breaks shall be for periods determined by the immediate supervisor, but in no event shall such breaks be more than one hour.

(4) Death of an employee. Upon the death of a full-time regular employee, his/her beneficiary will receive his/her next due payroll check, pay for accrued vacation and sick leave time. Further, his/her beneficiary shall be given complete assistance by the City of Smithville in settling retirement, life, and hospital insurance benefits.

(5) Payday. All administrative and hourly employees of the City of Smithville shall be paid on a weekly basis. If you have questions about your work time, salary, or paycheck, call them to the attention of the department head within the pay period in question or immediately thereafter. If you are absent on payday and wish to have someone else obtain your check for you, you may send a signed note authorizing the city to give your check to the bearer.

If you lose your check, notify your department head immediately. You will be required to sign an affidavit that your check has been lost, and a new one will be issued. If you resign, your last check will be issued within 14 days, provided all equipment is turned in to the city. You should give written notice of where the check should be sent if you are not available to pick it up.

(6) Payroll deductions. (a) Federal income tax. Federal income taxes are withheld from employees' paychecks based on the number of dependents claimed by the individual. Employees are required to keep on file with the city a copy of the W-4 form. In the event of changes in the employee exemption status, a revised W-4 must be filed before payroll deduction adjustments will be made.

(b) Social Security. Social Security payments and deductions will be made in accordance with the Social Security Act. The treasurer's office shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

(c) Others. Other deductions include retirement, uniform pay (where applicable), and garnishment.

(7) Overtime. Employees required to work overtime shall be compensated in accordance with the FLSA at a rate of 1½ the employee's regular pay rate. Department heads are excluded from the overtime provisions of the city. (as added by Ord. #287, Aug. 1999)

**4-207. Benefits.** (1) Eligibility. All full time employees are eligible for all benefits provided by the city.

(2) Vacation and sick leave. (a) Vacation. All full time officers and employees shall be given one week of vacation pay after they have been employed with the city for a one year period. After four years of service, all full time officers and employees shall be given two weeks paid vacation. Such vacation leave shall be taken at a time approved by the mayor or department head. "Full-time officer and employee shall be deemed to be any employee who works 1,500 hours per year or more."

(b) Sick leave. All officers and employees shall be given a credit of one day of sick leave with pay for each month of employment hereafter served. Sick leave, up to the number of days accrued, shall only be taken when an officer or employee's absence is due to his/her illness, bodily injury, exposure to contagious disease, or serious illness or death in the officer or employee's immediate family. "Immediate family" shall only include spouse, parent, grandparent, child or a sibling. In the event of a death of an immediate family member, the officer or employee shall be allowed up to three days sick leave. The mayor or department head may require a doctor's certificate or other satisfactory evidence that any absence is properly chargeable as sick leave. If the officer or employee is required to provide proof of their absence and they fail to do so, then they will not be allowed sick leave pay. The maximum credit for accrued sick leave under this provision shall be sixty days.

(3) Holidays. Full-time employees are allowed a day off with pay on the following holidays:

- (a) New Year's Day Jan. 1
- (b) Good Friday Friday before Easter Sunday
- (c) Memorial Day Last Friday in May
- (d) Independence Day July 4
- (e) Labor Day First Monday in September
- (f) Thanksgiving Fourth Thursday in November
- (g) Christmas Eve Dec. 24
- (h) Christmas Day Dec. 25

If a holiday falls on Sunday, it will be observed on the following Monday. If the holiday falls on Saturday, it will be observed on the preceding Friday. To receive compensation for the holiday, employees must be in a pay status on the workday before and on the workday after the holiday unless otherwise excused by the supervisor.

(4) Holiday pay. When an employee must work on a holiday, the employee will be paid at the rate of straight time of their regular pay rate for all scheduled and unscheduled time worked on the day observed as the holiday. Employees must work the day immediately preceding the holiday and the day immediately after, with the exception of an approved vacation or sick day, in order to receive holiday pay.

(5) Miscellaneous leave. (a) Funeral/bereavement leave. Employees may use up to three days of accumulated leave for funeral leave.

(b) Civil leave. Civil leave with pay may be granted to employees to:

- (i) Serve on jury duty,
- (ii) Answer a subpoena to testify for the city/town, and/or
- (iii) Perform emergency duty for national defense.

Employees selected for civil service shall be excused for the actual duration of the civil service. Upon release from civil duty during the employee's normal working hours, he/she is expected to return to duty. Employees will receive full pay during such service.

(c) Voting. When elections are held in the state, leave for the purpose of voting shall be in accordance with Tennessee Code Annotated, § 2-1-106, herein reprinted:

**"EMPLOYERS MAY DESIGNATE PERIODS OF PERMISSIBLE ABSENTEEISM-**Any person entitled to vote in an election held in this state may be absent from any service or employment on the day of the election for a reasonable period of time, not to exceed three hours, necessary to vote during the time the polls are open in the county where he/she is a resident. A voter who is absent from work to vote in compliance with this section may not be subjected to any penalty or reduction in pay for his absence. If the tour of duty of an employee begins three or more hours after the opening of the polls or ends three or more hours before the closing of the polls of the county where he/she is a resident, he/she may not take time off under this section. The employer may specify the hours during which the employee may be absent. Request for such an absence shall be made to the employer before twelve noon of the day before the election."

(d) Military leave. Any regular employee who has completed six months of satisfactory employment and who enters the U.S. armed forces will be placed on military leave. The mayor and board of aldermen shall approve military leave without pay when the employee presents his/her

official orders. The employee must apply for reinstatement within 90 days after release from active military duty.

The employee will be reinstated to a position in the current classification plan at least equivalent to his/her former position. His/her salary will be the salary provided under the position classification and compensation plan prevailing at the time of reinstatement or re-employment for the position to which he/she is assigned. If no position is available at the time of the employee's return, the employee will be reinstated into the first available position. No current full-time employee will be terminated or laid off to allow for the reinstatement.

Any regular full-time employee who is a member of the U.S. Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve, or any of the armed forces will be granted military leave for any field training or active duty required (excluding extended active duty). Such leave will be granted upon presentation of the employee's official order to his/her jurisdictional official. Compensation for such leave will be paid pursuant to Tennessee Code Annotated, § 8-33-109.

It will be the employee's responsibility to arrange with the department supervisor to attend monthly meetings on regular off-time, with pay being applicable to the annual two-week training period. Employees entering an extended active duty will be given fifteen (15) days pay when placed on military leave.

Firefighters who are members of the U.S. Army Reserve, Navy Reserve, Air Force Reserve, or Marine Reserve shall be allowed seven and a half (7.5) shift days for reserve training.

(6) Workers' compensation. All injuries arising out of and in the course of one's employment shall be governed by the Tennessee workers' compensation law. Employees on occupational disability leave shall receive only those benefits due under workers' compensation.

In all cases of occupational disability, the responsibility of determining the character, degree, and potential duration of an injury shall rest with the licensed, practicing medical doctor(s) designated by the City of Smithville. The medical doctor(s) may make periodic examinations, progress reports, and recommendations as deemed necessary by the department head.

Before an employee is returned to full duty, the employee may be required to demonstrate his/her fitness for duty by passing a performance test administered by the department head. This will only test for ability to perform routine tasks using those skills required for the position. Should an employee be unable to return to work within six months from the day following the date of injury, the employee may be subject to separation only if he/she:

- (a) Cannot perform the essential functions due to a disability that cannot reasonably be accommodated; and
- (b) Poses a direct threat to himself/herself and/or others.

(7) Insurance coverage. The City of Smithville provides basic health, dental, and life insurance coverage. Should circumstances dictate terminating benefits, the city will offer employees and their dependents the opportunity to extend their health insurance coverage under COBRA. (as added by Ord. #287, Aug. 1999)

**4-208. Miscellaneous personnel policies.** (1) Political activity. No municipal government employee, whether on or off duty, whether in or out of uniform, and whether on or off City of Smithville property, shall at any time or any place become a candidate for or campaign for an elective municipal government office. The city will not compensate employees for time when the employee is not performing work for the city. Any time off from work used by the employee for participation in political activities shall be limited to earned days off, vacation days, or by any other arrangements worked out between the employee and the city. Law enforcement officers are prohibited from engaging in political activities, supporting or opposing any candidate, party, or measure in any election when on duty or acting in such officer's official capacity.

(2) Municipal elections. No city employee, whether on or off duty, whether in or out of uniform, and whether on or off city property, shall at any time or any place:

(a) Become a candidate for or campaign for an elective city office in the City of Smithville;

(b) Directly or indirectly solicit, receive, collect, handle, disburse, or account for assessments, contributions, or other funds for a candidate for city office;

(c) Organize, sell tickets to, promote, or actively participate in a fund-raising activity of a candidate for city office;

(d) Take an active part in managing the political campaign for a candidate for city office;

(e) Solicit votes in support of or in opposition to a candidate for city office;

(f) Act as a clerk, watcher, challenger, or similar officer at the polls on behalf of a candidate for city office;

(g) Drive voters to the polls on behalf of a candidate for city office;

(h) Endorse or oppose a candidate for city office in a political advertisement, broadcast, campaign literature, or similar material;

(i) Address a rally or similar gathering of the supporters of opponents of a candidate for city office;

(j) Initiate or circulate a nominating petition for a candidate for city office;

(k) Wear campaign buttons, pins, hats, or other similar attachment, or distribute campaign literature in supporting or opposing a candidate for city office.

(3) In all other elections for public office. Municipal government employee shall enjoy the same rights of other citizens of Tennessee to be a candidate for any county, state, or federal political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. The City of Smithville is not required to pay the employee's salary for work not performed for the municipality.

(4) Personal telephone calls. Using the office telephone during regular work hours for local and/or long-distance personal calls, except in emergency cases, is discouraged.

(5) Driving records. Any employee who is required as an employment condition to possess and maintain a valid Tennessee driver's or commercial driver's license must immediately, before reporting for duty the next workday, inform his/her supervisor should his/her license become denied, expired, restricted, suspended, or revoked any time during employment with the city. Periodic review of employees' driving records will be conducted by the department head to assure adherence to this policy.

(6) Lockers. Lockers are the property of the municipality and may be inspected at any time without notice as there may be no expectation of privacy in such property. Employee assigned lockers (that are locked by the employee) are also subject to inspection after reasonable advance notice, unless such notice is waived by the mayor, commissioner, or treasurer.

(7) Garnishments. An employee who is garnished for more than one indebtedness within a 12-month period may be subject to disciplinary action in accordance with the following schedule:

First offense: Oral reprimand.

Second offense: Written reprimand.

Third offense: May be discharged in accordance with the discipline and dismissal policy.

(8) Bulletin boards. At numerous locations, the city maintains bulletin boards on which important information connected with an employee's work is posted from time to time. Cooperation is needed in protecting the posted material. All material to be placed on the bulletin boards must be approved by the appropriate supervisor before it is posted.

(9) Use of city vehicle prohibited. All city vehicles and equipment are for official use only. No person other than a city employee may operate a city vehicle or piece of machinery. Drivers and/or operators must have a valid Tennessee driver's license and be approved by the department head. (as added by Ord. #287, Aug. 1999, and replaced by Ord. #345, June 2003)

## CHAPTER 3

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### SECTION

- 4-301. Purpose and coverage.
- 4-302. Definitions.
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- 4-314. Penalties.
- 4-315. Confidentiality of privileged information.
- 4-316. Compliance with other laws to excused.

**4-301. Purpose and coverage.** The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the City of Smithville.

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

The City of Smithville in electing to establish and maintain an effective occupational safety and health program for its employees,

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

cannot be resolved under an occupational safety and health standard promulgated by the state.

(6) Assist the commissioner of labor or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.

(7) Make a report to the commissioner of labor annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational and health program.

(8) Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health. (1976, Code, § 1-1201, as replaced by Ord. #300, April 2000)

**4-302. Definitions.** For the purpose of this program, the following definitions apply:

(1) "Commissioner of labor" means the chief executive officer of the Tennessee Department of Labor. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor.

(2) "Employer" means the City of Smithville and includes each administrative department, board, commission, division, or other agency of the City of Smithville.

(3) "Director of occupational safety and health" or "director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of the City of Smithville.

(4) "Inspector (s)" means the individual (s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.

(5) "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.

(6) "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

(7) "Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(8) "Standard" means an occupational safety and health standard promulgated by the commissioner of labor in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

(9) "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.

(10) "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.

(11) "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:

(a) A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or

(b) A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

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

(12) "Act" or "TOSHAct" shall mean the Tennessee Occupational Safety and Health Act of 1972.

(13) "Governing body" means the county quarterly court, board of aldermen, board of commissioners, city or town council, board of governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.

(14) "Chief executive officer" means the chief administrative official, county judge, county chairman, mayor, city manager, general manager, etc., as may be applicable. (1976 Code, § 1-1202, as replaced by Ord. #300, April 2000)

**4-303. Employer's rights and duties.** Rights and duties of the employer include, but are not limited to, the following provisions:

(1) Employer shall furnish to each employee, conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

(2) Employer shall comply with occupational safety and health standards or regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.

(3) Employer shall refrain from and unreasonable restraint on the right of the commissioner of labor to inspect the employer's place (s) of business. Employer shall assist the commissioner of labor in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonable necessary to the effective conduct of the monitoring activity.

(4) Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.

(5) Employer is entitled to request an order granting a variance from an occupational safety and health standard.

(6) Employer is entitled to protection of its legally privileged communication.

(7) Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.

(8) Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.

(9) Employer shall notify all employees of their rights and duties under this program. (1976 Code, § 1-1203, as replaced by Ord. #300, April 2000)

**4-304. Employee's rights and duties.** Rights and duties of employees shall include, but are not limited to, the following provisions:

(1) Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.

(2) Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHAct or any standard or regulation promulgated under the Act.

(3) Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.

(4) Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the commissioner of labor or whoever is responsible for the promulgation of the standard or the granting of the variance.

(5) Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.

(6) Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the director or inspector at the time of the physical inspection of the worksite.

(7) Any employee may bring to the attention of the director any violation or suspected violations of the standards or any other health or safety hazards.

(8) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.

(9) Any employee who believes he or she has been discriminated against or discharged in violation of subsection (8) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the commissioner of labor alleging such discrimination.

(10) Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others or when a medical examination may be reasonably required for performance of a specific job.

(11) Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the director within twenty-four (24) hours after the occurrence. (1976 Code, § 1-1204, as replaced by Ord. #300, April 2000)

**4-305. Administration.** (1) The director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program.

(a) The director may designate person or persons as he deems necessary to carry out his powers, duties, responsibilities under this program.

(b) The director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the director.

(c) The director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.

(d) The director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.

(e) The director shall prepare the report to the commissioner of labor required by subsection (7) of § 4-301 of this plan.

(f) The director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.

(g) The director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.

(h) The director shall maintain or cause to be maintained records required under § 4-308 of this plan.

(i) The director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees, insure that the commissioner of labor receives notification of the occurrence within eight (8) hours.

(2) The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.

(a) The administrative or operational head shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this plan.

(b) The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.

(c) The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.

(d) The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall

report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with Appendix V of this plan.<sup>1</sup> (1976 Code, § 1-1205, as replaced by Ord. #300, April 2000)

**4-306. Standards authorized.** The standards adopted under this program are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. (1976 Code, § 1-1206, as replaced by Ord. #300, April 2000)

**4-307. Variance procedure.** The director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The director should definitely believe that a variance is needed before the application for a variance is submitted to the commissioner of labor.

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

(1) The application for a variance shall be prepared in writing and shall contain:

(a) A specification of the standard or portion thereof from which the variance is sought.

(b) A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.

(c) A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.

(d) A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.

(e) A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the commissioner of labor for a hearing.

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<sup>1</sup>Ord. #300, April 2000 and all appendices thereto are of record in the city recorder's office.

(2) The application for a variance should be sent to the commissioner of labor by registered or certified mail.

(3) The commissioner of labor will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

(a) The employer

(i) Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.

(ii) Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.

(iii) Has an effective program for coming into compliance with the standard as quickly as possible.

(b) The employee is engaged in an experimental program as described in subsection (2), § 4-313 of the Act.

(4) A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.

(5) Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.

(6) The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (1) (e) of this section). (1976 Code, § 1-1207, as replaced by Ord. #300, April 2000)

**4-308. Recordkeeping and reporting.** (1) Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, RECORDKEEPING REQUIREMENTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (Revised 1978) or as may be prescribed by the Tennessee Department of Labor.

(2) The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix V to this plan.<sup>1</sup>

(3) Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting

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<sup>1</sup>Ord. #300, April 2000 and all appendices thereto are of record in the city recorder's office.

Procedures, Appendix V to this plan.<sup>1</sup> (1976 Code, § 1-1208, as replaced by Ord. #300, April 2000)

**4-309. Employee complaint procedure.** If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the director of occupational safety and health.

(1) The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (8) of § 4-301 of this plan).

(2) Upon receipt of the complaint letter, the director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

(3) If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.

(4) The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.

(5) After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the commissioner of labor. Any complaint filed with the commissioner of labor in such cases shall include copies of all related correspondence with the director and the chief executive officer or the representative of the governing body.

(6) Copies of all complaint and answers thereto will be filed by the director who shall make them available to the commissioner of labor or his

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<sup>1</sup>Ord. #300, April 2000 and all appendices thereto are of record in the city recorder's office.

designated representative upon request. (1976, § 1-1209, as replaced by Ord. #300, April 2000)

**4-310. Education and training.** (1) Director and/or compliance inspector(s):

(a) Arrangements will be made for the director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.

(b) Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

(2) All employees (including supervisory personnel): A suitable safety and health training program for employees will be established. This program will, as a minimum:

(a) Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employee's work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.

(b) Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, person hygiene, etc., which may be required.

(c) Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.

(d) Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in subpart H and M and other applicable subpart of TOSHA standards. (1910 and/or 1926).

(e) Instruct employees on hazards and dangers of confined or enclosed spaces.

(i) "Confined or enclosed space" means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.

(ii) Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

(iii) The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment. (1976 Code, § 1-1210, as replaced by Ord. #300, April 2000)

**4-311. General inspection procedures.** It is the intention of the governing body and responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful work sites. Inspections made on a pro-designated basis may not yield the desired results. Inspections will be conducted, therefor, on a random basis at intervals not to exceed thirty (30) calendar days.

(1) In order to carry out the purposes of this program, the director and/or compliance inspector(s), if appointed, is authorized:

(a) To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;

(b) To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.

(2) If an imminent danger situation is found, alleged, or otherwise brought to the attention of the director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with § 4-312 of this plan before inspecting the remaining portions of the establishment, facility, or worksite.

(3) An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.

- (4) The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- (5) The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- (6) Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- (7) Advance notice of inspections. (a) Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
- (b) There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- (8) The director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
- (a) Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.
- (b) Records are made of the inspections and of any discrepancies found and are forwarded to the director.
- (9) The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the commissioner of labor or his authorized representative. (1976 Code, § 1-121, as replaced by Ord. #300, April 2000)

**4-312. Imminent danger procedures.** (1) Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

- (a) The director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
- (b) If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
- (c) As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the director or compliance inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

(d) The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director of compliance inspector and to the mutual satisfaction of all parties involved.

(e) The imminent danger shall be deemed abated if:

(i) The imminence of the danger has been eliminated by removal of employees from the areas of danger.

(ii) Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.

(f) A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with subsection (9) of § 4-311 of this plan.

(2) Refusal to abate. (a) Any refusal to abate an imminent danger situation shall be reported to the director and chief executive officer immediately.

(b) The director and/or chief executive officer shall take whatever action may be necessary to achieve abatement. (1976 Code, § 1-1212, as replaced by Ord. #300, April 2000)

**4-313. Abatement orders and hearings.** (1) Whenever, as a result of an inspection or investigation, the director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the director shall:

(a) Issue an abatement order to the head of the worksite.

(b) Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

(2) Abatement orders shall contain the following information:

(a) The standard, rule, or regulation which was found to violated.

(b) A description of the nature and location of the violation.

(c) A description of what is required to abate or correct the violation.

(d) A reasonable period of time during which the violation must be abated or corrected.

(3) At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested

and/or responsible parties in an effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final. (as added by Ord. #300, April 2000)

**4-314. Penalties.** (1) No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.

(2) Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:

- (a) Oral reprimand.
- (b) Written reprimand.
- (c) Suspension for three (3) or more working days.
- (d) Termination of employment. (as added by Ord. #300, April

2000)

**4-315. Confidentiality of privileged information.** All information obtained by or reported to the director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the commissioner of labor or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972. (as added by Ord. #300, April 2000)

**4-316. Compliance with other laws not excused.** (1) Compliance with any other law, statute, ordinance, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.

(2) Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with and law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed. (as added by Ord. #300, April 2000)

## CHAPTER 4

### INFECTIOUS DISEASE CONTROL POLICY

#### SECTION

- 4-401. Purpose.
- 4-402. Coverage.
- 4-403. Administration.
- 4-404. Definitions.
- 4-405. Policy statement.
- 4-406. General guidelines.
- 4-407. Hepatitis B vaccinations.
- 4-408. Reporting potential exposure.
- 4-409. Hepatitis B virus post-exposure management.
- 4-410. Human immunodeficiency virus post-exposure management.
- 4-411. Disability benefits.
- 4-412. Training regular employees.
- 4-413. Training high risk employees.
- 4-414. Training new employees.
- 4-415. Records and reports.
- 4-416. Legal rights of victims of communicable diseases.

**4-401. Purpose.** It is the responsibility of the City of Smithville to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of Smithville, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (Ord. #239, July 1992)

**4-402. Coverage.** Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Paramedics and emergency medical technicians;
- (2) Occupational nurses;
- (3) Housekeeping and laundry workers;

- (4) Police and security personnel;
- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination. (Ord. #239, July 1992)

**4-403. Administration.** This infection control policy shall be administered by the mayor or his/her designated representative who shall have the following duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen. (Ord. #239, July 1992)

**4-404. Definitions.** (1) "Body fluid" - fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

(2) "Exposure" - the contact with blood or other potentially infectious materials to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.

(3) "Hepatitis B Virus (HBV)" - a serious blood-borne virus with potential for life-threatening complications. Possible complications include: massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.

(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through

sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

(5) "Tuberculosis (TB)" - an acute or chronic communicable disease that usually affects the respiratory system, but may involve any system in the body.

(6) "Universal precautions" - refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be protected as though such body fluid were HBV or HIV infected. (Ord. #239, July 1992)

**4-405. Policy statement.** All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (Ord. #239, July 1992)

**4-406. General guidelines.** General guidelines which shall be used by everyone include:

(1) Think when responding to emergency calls and exercise common sense when there is potential exposure to blood or other potentially infectious materials which require universal precautions.

(2) Keep all open cuts and abrasions covered with adhesive bandages which repel liquids.

(3) Soap and water kill many bacteria and viruses on contact. If hands are contaminated with blood or other potentially infectious materials to which universal precautions apply, then wash immediately and thoroughly. Hands shall also be washed after gloves are removed even if the gloves appear to be intact. When soap and water or handwashing facilities are not available, then use a waterless antiseptic hand cleaner according to the manufacturers recommendation for the product.

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After

they are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

(5) The city will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or other potentially infectious materials to which universal precautions apply:

(a) While handling an individual where exposure is possible;

(b) While cleaning or handling contaminated items or equipment;

(c) While cleaning up an area that has been contaminated with one of the above;

Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employees shall not wash or disinfect surgical or examination gloves for reuse.

(6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel to provide or potentially provide emergency treatment.

(7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other potentially infectious materials to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.

(8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other potentially infectious materials.

(9) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A household (chlorine) bleach solution (1 part chlorine to 10 parts water) shall be applied to the contaminated surface as a disinfectant leaving it on for a least 30 seconds. A solution must be changed and re-mixed every 24 hours to be effective.

(10) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at 120° are adequate for decontamination.

(11) Place all disposable equipment (gloves, masks, gowns, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. NOTE: Sharp objects must be placed in an impervious container and properly disposed of the objects.

(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

(a) Tags shall contain a signal word and a major message. The signal word shall be "BIOHAZARD", or the biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.

(b) The signal word shall be readable at a minimum distance of five (5) feet or such greater distance as warranted by the hazard.

(c) All employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.

(13) Linen soiled with blood or other potentially infectious materials shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage.

The employee responsible for transported soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with potentially infectious materials.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (Ord. #239, July 1992)

**4-407. Hepatitis B vaccinations.** The City of Smithville shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the Infectious Disease Control Coordinator. (Ord. #239, July 1992)

**4-408. Reporting potential exposure.** City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc...):

(1) Notify the Infectious Disease Control Coordinator of the contact incident and details thereof.

(2) Complete the appropriate accident reports and any other specific form required.

(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury.

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (Ord. #239, July 1992)

**4-409. Hepatitis B virus post-exposure management.** For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (ie., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (Ord. #239, July 1992)

**4-410. Human immunodeficiency virus post-exposure management.** For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested 6 weeks, 12 weeks, and 6 months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 6 - 12 weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during

sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure. (Ord. #239, July 1992)

**4-411. Disability benefits.** Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A. 50-6-303. (Ord. #239, July 1992)

**4-412. Training regular employees.** On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials.

They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (Ord. #239, July 1992)

**4-413. Training high risk employees.** In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. (Ord. #239, July 1992)

**4-414. Training new employees.** During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work. (Ord. #239, July 1992)

**4-415. Records and reports.** (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e.

gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc...) shall be recorded.

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

(4) Employee interviews. Should the city be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (Ord. #239, July 1992)

**4-416. Legal rights of victims of communicable diseases.** Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

(1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.

(2) Any officer who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be subject to disciplinary measures along with civil and, or criminal prosecution.

(3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write "contains confidential medical information" across the top margin of the first page of the report.

(4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement at the time the report is reviewed and initiated by the supervisor.

(5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.

(6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the city attorney when the incident involves an indictable or juvenile offense.

(7) Prior approval shall be obtained from the city attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.

(8) All circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or city attorney.

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil/and/or criminal prosecution. (Ord. #239, July 1992)

## CHAPTER 5

### TRAVEL REIMBURSEMENT REGULATIONS

#### SECTION

- 4-501. Enforcement.
- 4-502. Travel policy.
- 4-503. Travel reimbursement rate schedule.
- 4-504. Administrative procedures.

**4-501. Enforcement.** The mayor of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #245, July 1993)

**4-502. Travel policy.** (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the mayor. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

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

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be:

(a) directly related to the conduct of the city business for which travel was authorized, and

(b) actual, reasonable, and necessary under the circumstances.

The mayor may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of \$5 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement. (Ord. #245, July 1993)

**4-503. Travel reimbursement rate schedules.** Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The city's travel reimbursement rates will automatically change when the state rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #245, July 1993)

**4-504. Administrative procedures.** The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #245, July 1993)

**CHAPTER 6****RETIREMENT SYSTEM FOR EMPLOYEES****SECTION**

4-601. Established.

**4-601. Established.** A retirement system is established by and through the mayor and board of aldermen of the City of Smithville, Tennessee, as follows:

(1) The retirement plan for the City of Smithville employees shall be a defined-benefits plan patterned after an "eligible" plan as provided by Internal Revenue Code Section 457(B).

(2) First City Bank is hereby selected as the administrator of the plan.

(3) The plan will allow any present employee to pay into the plan up to three (3%) percent of that employee's income for up to five (5) years of prior service. The City of Smithville will match any amount paid into the plan for any prior service up to three percent (3%) per year of such prior service. Thereafter, the City of Smithville will match any amount paid into the plan by an employee up to three percent (3%) per year.

(4) A probationary period of three (3) months shall be established prior to an employee being allowed to participate in the plan.

(5) With the concurrence of the mayor, the city recorder, the city accountant, and the city attorney, the plan administrator shall develop rules and regulations which will effectively implement the plan. Once such rules and regulations are approved, no substantive change in employee benefits can be made without an amendment to this chapter. (Ord. #258, Dec. 1995)

## CHAPTER 7

### FAMILY AND MEDICAL LEAVE POLICY

#### SECTION

4-701. Family and medical leave.

**4-701. Family and medical leave.** (1) Eligibility. An eligible employee may take up to 12 weeks of unpaid leave in a 12-month period for the birth and care of a child or the placement and care of a child for adoption or foster care. (Note: Under the Tennessee Maternity Leave Act (TMLA), a female employee may take an additional four weeks of unpaid leave if the three-month advance notice has been complied with.) Leave may also be taken to care for the employee, a child, spouse, or a parent who has a serious health condition. The right to take leave applies equally to male and female employees who are eligible.

Unpaid leave to care for a newborn child or a newly placed adopted or foster care child must be taken before the end of the first 12 months following the date of birth or placement.

An expectant mother may take unpaid medical leave upon the birth of the child, or prior to the birth of the child, for necessary medical care and if her condition renders her unable to work. Similarly, for adoption or foster care, leave may be taken upon the placement of the child or leave may begin prior to the placement if absence from work is required for the placement to proceed.

An employee may take unpaid leave to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or parent of any age who is unable to care for his/her own basic hygiene, nutritional needs, or safety. Examples include a parent or spouse whose daily living activities are impaired by such conditions as Alzheimer's disease, stroke, recovering from major surgery, or the final stages of terminal illness.

Eligible employees who are unable to perform the functions of their position because of a serious health condition may request up to 12 weeks unpaid leave. The term "serious health condition" covers conditions or illnesses that affect an employee's health to the extent that he/she must be absent from work on a recurring basis or for more than a few days for treatment or recovery.

Employees requesting medical leave due to their own illness or injury shall use any balance of sick leave, annual leave, or floating holidays prior to the beginning of unpaid leave. The combination of sick leave, annual leave, floating holidays, and unpaid leave may not exceed 12 weeks. Employees requesting family leave may use unpaid leave. The combination of annual leave, floating holidays, and unpaid leave may not exceed 12 weeks.

During periods of unpaid leave, an employee will not accrue any additional seniority or similar employment benefits during the leave period.

If spouses are employed by the same employer and wish to take leave for the care of a new child or a sick parent, their aggregate leave is limited to 12 weeks. For example, if the father takes eight weeks of leave to care for a child, the mother would be entitled to four weeks leave, for a total of 12 weeks.

(2) Right to return to work. On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave commence, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been restructured to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employer's obligations may be governed by the American with Disabilities Act.

(3) Notification and scheduling. An eligible employee must provide the employer at least 30 days of advance notice of the need for leave for birth, adoption, or planned medical treatment, when the need for leave is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth or sudden changes in a patient's condition that require a change in scheduled medical treatment.

People who are awaiting the adoption of a child and are given little notice of the unavailability of the child may also be exempt from this 30-day notice.

It is the city's responsibility to designate leave in writing as FMLA leave and to notify the employee. Employees may not retroactively claim that leave was for FMLA.

The employer will provide the FMLA leave notice in alternate formats.

(4) Certification. The employer reserves the right to verify an employee's request for family/medical leave. If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the employer requires that the request be supported by certification issued by the health care provider of the eligible employee or the family member as appropriate. If the employer has reason to question the original certification, the employer may, at the employer's expense, require a second opinion from a different health care provider chosen by the employer. That health care provider may not be employed by the employer on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

This certification must contain the date on which the serious health condition began, its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse, or

parent and must include an estimate of the amount of time that the employee is needed to care for the family member.

Medical certifications given will be treated as confidential and privileged information. An employee will be required to report periodically to the employer the status and the intention of the employee to return to work.

Employees who have taken unpaid leave under this policy must furnish the employer with a medical certification from the employee's health care provider at the employees expense, stating that the employee is able to resume work before return is granted.

(a) Maintenance of health and COBRA benefits during unpaid leave. The employer will maintain health insurance benefits, paid by the employer for the employee, during periods of unpaid leave without interruption. Any payment for family coverage/premiums or other payroll deductible insurance policies must be paid by the employee or the benefits may not be continued.

The employer has the right to recover from the employee all health insurance premiums paid during the unpaid leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from the recapture provision.

Leave taken under this policy does not constitute a qualifying event that entitles an employee to Consolidated Omnibus Budget Reconstruction (COBRA) insurance coverage. However, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not return to work, and therefore ceases to be entitled to leave under this policy.

(b) Reduced and intermittent leave. Leave under this policy can be taken intermittently or on a reduced leave schedule when medically necessary as certified by the health care provider. Intermittent or reduced leave schedules for routine care of a new child can be taken only with approval of the mayor and board of aldermen. the schedule must be mutually agreed upon by the employee and the employer.

Employees on intermittent or reduced leave schedules may be temporarily transferred by the employer to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.

Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but will not exceed the equivalent of 12 workweeks in a 12-month period.

(c) Restoration. Employees who are granted leave under this policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave.

Employees voluntarily accepting a light duty assignment in lieu of continuing FMLA leave maintain their right to restoration to the original or an equivalent job until the twelve (12) weeks of FMLA leave has passed.

(d) The 12-month FMLA period. The 12-month period during which an employee is entitled to 12 workweeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to 12 weeks of leave during the 12-month period after the leave begins. The next 12-month period will begin the first time the employee requests FMLA leave after the completion of the previous 12-month period. (The employer may choose as the 12-month period either the calendar year, a fixed 12-month period, or the 12-month period counted backward from the date of leave.)

(e) Denial of FMLA leave. If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the employer may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employer of the need for FMLA leave.

If an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employer may delay continuation of FMLA leave until an employee submits the certificate. If the employee never produces the certification, the leave is not FMLA leave.

If an employee fails to provide a requested fitness-for-duty certification to return to work, an employer may delay restoration until the employee submits the certificates. (as added by Ord. #287, Aug. 1999)

## CHAPTER 8

### RULES OF CONDUCT

#### SECTION

4-801. Purpose.

4-802. Expectations.

4-803. Penalties.

**4-801. Purpose.** Reasonable rules of conduct are necessary for the orderly and efficient operation of the city government. Rules of conduct should be reasonable and should be for the purpose of promoting efficiency, effectiveness, and safety. Rules should tell the employee what is expected of him/her and the sanctions for violating the rules. Such being the case, rules for employees and non-elected officials of the City of Smithville and the penalties for violation of said rules are set forth in section 4-802. Any violation of these rules shall constitute just cause for disciplinary action and/or discharge of any city employee or non-elected official. (as added by Ord. #287, Aug. 1999)

**4-802. Expectations.** The City of Smithville has the right to expect that the employee will:

- (1) Be at work on time
- (2) Give a full day's work
- (3) Respond positively to directions
- (4) Learn the present and new job
- (5) Adjust to changes
- (6) Get along with other employees, officials, and the general public
- (7) Be physically and mentally fit for normal duty
- (8) To know and follow the rules
- (9) Not to use excessive unscheduled absences. Unscheduled absence is calling in on short notice and reporting that you will not be in for work. Unscheduled absences that are 20% more than average are deemed excessive.
- (10) Not to use excessive sick leave. Excessive sick leave is leave that is taken one or two days at a time without excuse. Sick leave is excessive when the amount of time taken a day or two at a time is more than 20% of average sick leave. Sick leave that is taken for longer periods of time, where the employee is actually sick, is not excessive sick leave.
- (11) To be productive in his/her work.
- (12) To take proper care of city equipment.
- (13) To report in a timely manner, damage to equipment that is assigned to or that is being used by the employee.
- (14) Not to violate the city's drug free policies. The employee is obligated to inform his/her supervisor of any prescription drugs that the

employee is taking, the side effects of which may cause drowsiness or impair the ability of the employee to operate city equipment.

(15) Not to report to work without a driver's license, if the employee is required to have a drivers license to perform the job to which he/she is assigned. The employee is not to operate a city vehicle without a drivers license in his/her possession.

(16) To be courteous in dealing with fellow employees and the general public.

(17) Employees, other than police officers, are not to carry guns or knives, with a blade longer than three inches, in any city vehicle. City owned equipment that is used for cutting grass, weeds, or trees shall not be considered a violation of this rule.

(18) Not to make an excessive number of errors in carrying out job duties. (as added by Ord. #287, Aug. 1999)

**4-803. Penalties.** The penalties listed in this section for violations are intended to be the penalties for the normal type of violation that have normal consequences. Subject to an appeal to the city council, more severe disciplinary measures may be taken where violations have serious consequences. Conversely, the city may take less severe disciplinary measures under the opposite circumstances.

Conduct and penalties

(1) Demonstrated inability or unwillingness to respond positively to directions from supervisors.

First offense	3 days off without pay
Second offense	Discharge

(2) Failure to take proper care of city equipment, or theft of city property.

Discharge

(3) Failure to get along with others. Fighting with, threatening or intimidating other employees, or horseplay, on city property or while performing work on city time will not be condoned.

First offense	2 days off without pay
Second offense	5 days off without pay
Third offense	Discharge

(4) Failure to be at work on time. Being absent without reasonable cause or absence without proof of just cause; or frequent lateness; or leaving the job without approval of the supervisor.

First offense	2 days off without pay
Second offense	5 days off without pay
Third offense	Discharge

(5) Use of excessive unscheduled absences. Walking off the job or unauthorized absence from work place during scheduled work hours.

First offense	1 day off without pay
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|------|--|--|
|      | Second offense   | 3 days off without pay                                 |
|      | Third offense  | Discharge  |
| (6)  | Failure to report in a timely manner, damage to equipment that is assigned to or that is being used by the employee.   |  |
|      | First offense  | Reprimand, plus pay cost of damages                    |
|      | Second offense   | 3 days off without pay, plus cost of damages           |
|      | Third offense  | Discharge, plus cost of damages                        |
| (7)  | Violating or disregarding safety rules and common safety practices or contributing to unsanitary or unhealthy conditions.  |  |
|      | First offense  | Reprimand  |
|      | Second offense   | 3 days off without pay                                 |
|      | Third offense  | Discharge  |
| (8)  | Deliberate falsifying of city records (water meter books, gasoline logs, accident reports, police logs, etc.)  |  |
|      | First offense  | 5 days off without pay, plus restitution if applicable |
|      | Second offense   | Discharge  |
| (9)  | Abuse of sick leave. Sick leave that is taken regularly for a day or two at a time, without excuse, and that is twenty percent (20%) greater than the average sick leave taken by other city employees shall be considered an abuse of sick leave. |  |
|      | First offense  | Warning  |
|      | Second offense   | 3 days off without pay                                 |
|      | Third offense  | Discharge  |
| (10) | Failure to be productive in his/her work.  |  |
|      | First offense  | Warning  |
|      | Second offense   | 3 days off without pay                                 |
|      | Third offense  | Discharge  |
| (11) | Intentional deviation from established work procedures without authorization from the supervisor.  |  |
|      | First offense  | Warning  |
|      | Second offense   | 3 days off without pay                                 |
|      | Third offense  | Discharge  |
| (12) | Deliberate falsification of application for employment or insurance claim that would seriously affect employment.  |  |
|      | Discharge  |  |
| (13) | Unsettled or frequent assignment of levy of wages.   |  |
|      | First offense  | Warning  |
|      | Second offense   | Reprimand  |
|      | Third offense  | Discharge  |
| (14) | Gambling on city property at any time.   |  |
|      | First offense  | 3 days off without pay                                 |
|      | Second offense   | Discharge  |

(15) Possession of illegal drugs, other than personal prescriptions; or consuming such drugs or intoxicating beverages on city property; or reporting for work under the influence of such illegal drugs or intoxicating beverages. The employee is obligated to inform his supervisor if he is taking a prescription drug, while on duty, the side effects of which are known to cause drowsiness or impair his/her ability to operate city equipment.

First offense 3 days off without pay

Second offense Discharge

(16) Sleeping during working hours on city property or city time.

First offense 1 day off without pay

Second offense 3 days off without pay

Third offense Discharge

(17) Intentional ringing or punching the time card of another employee, having the time card punched by another employee, unauthorized alteration or mutilation of a time card, for the purpose of defrauding the City of Smithville.

Discharge

(18) The conviction of any felony in any court, federal or state.

Discharge

(19) Failure to give a full day's work.

First offense 1 day off without pay

Second offense 3 days off without pay

Third offense Discharge

The above rules are not all inclusive, but cover the most common infractions. Penalties for other unacceptable conduct will be administered consistent with the seriousness of the offense.

In addition to all of the rules of conduct set out above, the employees and non-elected officials of the city shall be subject to any and all of the charter provisions applicable to such employees or officials.

Further, the city judge shall be subject to the Code of Professional Responsibility, and the Code of Judicial Conduct, being Rules 8 and 10, respectively, of the RULES OF THE SUPREME COURT OF THE STATE OF TENNESSEE. Further, the city attorney will be subject to the Code of Professional Responsibility, being Rule 8 of the RULES OF THE SUPREME COURT OF THE STATE OF TENNESSEE. The judicial commissioner shall further be subject to the provisions of Title 40, Chapter 5, Chapter 6, and Chapter 7 of the Tennessee Code Annotated. The secretary-treasurer shall be subject to the Rules of Conduct as set out above. The chief of police, in addition to complying with the Rules of Conduct set out above, shall comply with any and all provisions contained in the Tennessee Code Annotated, applicable to law enforcement officers, and in addition thereto, shall comply with the city adopted police manual. (as added by Ord. #287, Aug. 1999)

## CHAPTER 9

### GRIEVANCE POLICY

#### SECTION

- 4-901. Purpose.
- 4-902. Requests for accommodation.
- 4-903. Duty of employee to inform supervisors of grievance.
- 4-904. Employee rights in grievance process.
- 4-905. Records.
- 4-906. Right to contact elected officials.

**4-901. Purpose.** The purpose of this policy is to set forth the principles of the City of Smithville for employees who may feel that they have been treated unfairly and to prescribe uniform procedures for the individual employee to have his/her grievance heard. (as added by Ord. #287, Aug. 1999)

**4-902. Requests for accommodation.** When a request for an accommodation is denied, a disabled employee may also file a grievance in accordance with this policy or the grievance procedures adopted pursuant to ADA. Employees will be treated fairly in all respects. Those who feel they have been subjected to unfair treatment have the right to present their grievance to the proper person for prompt consideration and a fair decision. (as added by Ord. #287, Aug. 1999)

**4-903. Duty of employee to inform supervisors of grievance.** Employees must remember that there is no grievance until the department head or other appropriate person has been made aware of the dissatisfaction. Once this is done, the following steps are to be taken:

(1) If any employee has a grievance concerning any aspect of their employment, the employee should first discuss that grievance with their immediate supervisor.

(2) If the employee is not satisfied with the results of the immediate supervisor's actions, then the next step should be to present the grievance in writing to their department head.

(3) If the employee is not satisfied with the results of the action of the department head, then he/she shall present the written grievance to the commissioner of their respective department.

(4) If the employee is still not satisfied with the actions taken by any of the persons here before mentioned, then the employee shall be entitled to a hearing before the mayor. At such hearing, the mayor shall have the written record of the grievance and findings of supervisors, department heads, and commissioners, and may require the attendance of anyone whom he deems necessary.

(5) If the employee is not satisfied with the actions taken at that meeting, then the final step in the appeal process shall be a hearing before the mayor and board of aldermen. The decision of the mayor and board of aldermen shall be final. (as added by Ord. #287, Aug. 1999)

**4-904. Employee rights in grievance process.** An employee with a grievance shall be notified in writing of the right to:

- (1) A grievance or appeals hearing as specified in this policy;
- (2) Receive written notification of the reason for the action that led to the grievance;
- (3) Be represented at all stages of the grievance proceedings by legal counsel retained at the employee's expense;
- (4) Present witnesses in his/her own behalf and cross-examine witnesses in support of the city's action;
- (5) Examine and copy all documents that will be used by the municipality as justification for its actions; and
- (6) Be free from threats, coercion, intimidation, or discrimination from other employees because he/she has made complaints, testified, or assisted in any manner in the above-stated grievance and appeals procedures. (as added by Ord. #287, Aug. 1999)

**4-905. Records.** Records shall be made of all proceedings pertaining to the grievance actions, and these records shall be maintained in the city's permanent file by the treasurer's office. (as added by Ord. #287, Aug. 1999)

**4-906. Right to contact elected officials.** It is not the intent of these policies and procedures to restrict in any way the employee's right to contact an elected official. (as added by Ord. #287, Aug. 1999)

## CHAPTER 10

### SEXUAL HARASSMENT PROHIBITED

#### SECTION

4-1001. Purpose.

4-1002. Sexual harassment defined.

4-1003. Initiating a sexual harassment complaint.

4-1004. The complaint.

4-1005. Investigating and reporting sexual harassment complaints.

**4-1001. Purpose.** The city may be held liable for the actions of all employees. The city will take immediate and positive steps to stop such harassment when and if it occurs. The city may be responsible for acts of sexual harassment in the workplace when the city (or its agents or supervisory employees) know or should have known of the conduct, unless it can be shown that the city took immediate and appropriate corrective action. The municipality may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the municipal government (or its agents or supervisory employees) know or should have known of the conduct and failed to take immediate and appropriate action.

This policy applies to all officers and employees of the City of Smithville, including but not limited to full and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personal rules or regulations of the city, and employees working under contract for the city. The following rules shall be strictly enforced. (as added by Ord. #287, Aug. 1999)

**4-1002. Sexual harassment defined.** The following actions constitute an unlawful employment practice and are absolutely prohibited by the city when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance. They are:

- (1) Sexual harassment or unwelcome sexual advances;
- (2) Request for sexual favors;
- (3) Verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
- (4) Explicit or implied job threats or promises in return for submission to sexual favors;
- (5) Inappropriate sex-oriented comments on appearance;
- (6) Embarrassing sex-oriented stories;
- (7) Displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
- (8) Sexual assault on the job by supervisors, fellow employees, or, on occasion, non-employees.

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conducted directed by women toward men, and conduct directed by women toward women. (as added by Ord. #287, Aug. 1999)

**4-1003. Initiating a sexual harassment complaint.** An employee who feels he/she is subjected to sexual harassment should immediately contact a person (listed below) with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

- (1) The employee's immediate supervisor.
- (2) The employee's department head,
- (3) A city commissioner
- (4) The treasurer
- (5) The, mayor, or
- (7) The mayor and board of aldermen. (as added by Ord. #287, Aug. 1999)

**4-1004. The complaint.** Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about sexual harassment. The employee should be prepared to provide the following information:

- (1) His/her name, department, and position title;
- (2) The name of the person or people committing the sexual harassment, including their title(s), if known;
- (3) The specific nature of the sexual harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment.
- (4) Witnesses to the harassment; and
- (5) Whether the employee has previously reported the harassment and, if so, when and to whom. (as added by Ord. #287, Aug. 1999)

**4-1005. Investigating and reporting sexual harassment complaints.** (1) Investigating. The mayor is the person the city designates as the investigator of sexual harassment complaints against employees. In the event the sexual harassment complaint is against the mayor, the investigator shall be a municipal employee appointed by the board of aldermen.

(2) Reporting. When an allegation of sexual harassment is made by any employee, the person to whom the complain is made shall:

- (a) Immediately prepare a report of the complaint according to the preceding section and submit it to the department head.
- (b) Make and keep a written record of the investigation at the time the verbal interview is in progress, including notes on:

- (i) Verbal responses made to the investigator by the person complaining of sexual harassment.
  - (ii) Witnesses interviewed during the investigation,
  - (iii) The person against whom the complaint of sexual harassment was made, and
  - (iv) Any other person contacted by the investigator in connection with the investigation.
- (3) Findings. Within 5 days of receiving the complaint, prepare and present the findings to the mayor in a report, which will include:
  - (a) The written statement of the person complaining of sexual harassment,
  - (b) The written statements of witnesses,
  - (c) The written statement of the person against whom the complaint of sexual harassment was made, and
  - (d) All the investigator's notes connected to the investigation.
- (4) Action on complaints of sexual harassment. Upon receiving an investigation report of sexual harassment complaint, the mayor shall immediately review the report. If the mayor determines that the report is not complete in some respect, he/she may question the person complaining of sexual harassment, the person against whom the complaint has been made, witnesses to the conduct in question or any other person who may have knowledge about the harassment.

Based upon the report and his/her own investigation (where a separate investigation is made), the mayor shall, within a reasonable time, determine whether the conduct in question constitutes sexual harassment. In making that determination the mayor shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. Whether sexual harassment took place will be determined on a case-by-case basis.

If the mayor determines that the harassment complaint is founded, he/she shall take immediate and appropriate disciplinary action against the person committing the offense, consistent with his/her authority under the municipal charter, ordinances, resolutions, or rules governing his/her authority to discipline employees. If the mayor feels that the harassment warrants disciplinary action stronger than he/she is authorized to impose by the charter, ordinances resolutions, or rules governing employee discipline, he/she shall make that determination known, along with the report of the investigation, to the Board of Aldermen of Smithville. If the governing body determines that the sexual harassment complaint is founded, it may discipline the employee consistent with its authority under the municipal charter, ordinances, resolutions, or rules governing employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, the employee's rank, and any other factors the board of aldermen believes relate to fair and efficient administration of the city. This includes, but

is not limited to the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the city. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. Determining the level of disciplinary action shall also be made on a case-by-case basis. A written record shall be kept of disciplinary actions, including verbal reprimands.

In all events, an employee found to have committed sexual harassment shall be warned not to retaliate in any way against the person making the complaint, witnesses, or any other person connected with the investigation.

In cases where sexual harassment is committed by a non-employee against a city employee in the workplace, the mayor shall take whatever lawful action necessary against the non-employee to bring the sexual harassment to an end.

(5) Obligation of employee. Employees are not only encouraged to report instances of sexual harassment, they are obligated to report them. Employees are also obligated to cooperate in every harassment investigation. The obligation includes, but is not necessarily limited to, coming forward with evidence (both favorable and unfavorable) about a person accused of such conduct, fully and truthfully making written reports, or verbally answering questions when required to do so by an investigator. Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

Disciplinary action may be taken against employees who fail to report instances of sexual harassment, fail or refuse to cooperate in the sexual harassment investigation, or file a complaint of sexual harassment in bad faith. (as added by Ord. #287, Aug. 1999)

**CHAPTER 11****DRUG AND ALCOHOL TESTING****SECTION**

4-1101. Purpose.

**4-1101. Purpose.** To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the city has adopted a drug and alcohol testing policy. Any employee for the city who is required to have a commercial driver's license (CDL) shall be subject to controlled substance and alcohol test. Employee who fail to comply with the policy are subject to disciplinary action as set forth in the policy. (as added by Ord. #287, Aug. 1999)

## CHAPTER 12

### EMPLOYEE PERSONALLY IDENTIFYING INFORMATION

#### SECTION

4-1201. Right to privacy.

4-1202. Information defined.

4-1203. Procedures for requesting information on individual employees.

**4-1201. Right to privacy.** As a matter of policy, the City of Smithville will not disclose personally identifying information about specific employees or applicants, if the employee invokes his/her right to privacy, personal security and bodily integrity. If the employee does not invoke his/her right to privacy, personal security and bodily integrity, the information will be released to the requestor. (Ord. #284, § 1, June 1999)

**4-1202. Information defined.** Personally identifying information includes addresses, phone numbers, drivers' licenses, and social security numbers. It also includes, but is not limited to the names, addresses, phone numbers, drivers' licenses, and social security numbers of family members, if such information is in the city's personnel files. (Ord. #284, § 2, June 1999)

**4-1203. Procedures for requesting information on individual employees.** (1) All requests to review a file or information from a file must be handled by the personnel administrator. In his/her absence, requests will be referred to the city manager/administrator.

(2) The person(s) requesting the information must complete a form (copy attached) specifying what information is being requested and the reason for the request. The request shall be as specific as possible.

(3) The personnel administrator will offer the requestor a work history on the employee and may also provide copies of individual items from the file with the personally identifying information deleted or blacked out.

(4) Requests for unedited copies of an employee's file or any personally identifying information will result in notification to the employee whose information has been requested. The personnel administrator will notify the employee within 48 hours that the request has been made to disclose personally identifying information. The employee then will have 24 hours to object to the information being disclosed.

(5) If the employee makes no objection to full disclosure, the personnel administrator will allow the unedited file or personally identifying information to be disclosed.

(6) If the employee objects to the disclosure, the information will not be disclosed. If the requestor objects, the requestor will be referred to the city attorney for appropriate resolution.

(7) The personnel administrator or city manager/administrator are the only officials authorized to verify employment upon request. These officials may not release or verify an employee's social security number, address, driver's license, or other personally identifying information, unless compelled to do so by a final order of a court of competent jurisdiction.

(8) Any requests for this information must be made in writing; and all request(s) for police officers' personally identifying information must be handled by the personnel administrator or city manager/administrator. (Ord. #284, § 3, June 1999)

## CHAPTER 13

### EXCAVATION SAFETY POLICY

#### SECTION

- 4-1301. Purpose.
- 4-1302. Trench excavations.
- 4-1303. Safety precautions.
- 4-1304. Other hazards.

**4-1301. Purpose.** Trenching and excavation work poses serious risks to all workers involved. The primary hazard, however, for excavation workers, is from cave-ins. When cave-ins occur, they are much more likely to result in worker fatalities than other excavation-related accidents. The City of Smithville has developed these policies and procedures and requires strict compliance to prevent or greatly reduce the risk of cave-ins as well as other excavation-related accidents.

The occupational Safety and Health Administration (OSHA) requires that employees exposed to cave-in hazards be protected by

- (1) Sloping or benching the sides of the excavation,
- (2) By supporting the sides of the excavation, or
- (3) By placing a shield between the side of the excavation and the work area. (as added by Ord. #331, Dec. 2002)

**4-1302. Trench excavations.** (1) Sloping. The safety and health of excavation workers can be ensured by effectively sloping the sides of a trench or excavation to an angle not steeper than one and one-half horizontal to one vertical (34 degrees measured from the horizontal). A slope of this gradation or less is considered safe for any type of soil.

All simple slope excavations of 16 feet or less in depth shall have a maximum allowable slope of 1 and 1/2:1. Any excavation of greater depth than 16 feet will be undertaken by an outside contractor.

(2) Trench boxes and shields. Trench boxes and shields designed or approved by a registered professional engineer, or based on data prepared or approved by a registered professional engineer, may be used to ensure the safety of excavation workers. Trench boxes may be constructed of timber, aluminum, or other suitable material as may be approved by a registered professional engineer.

(3) Responsibility. It shall be the responsibility of the town's public works supervisor or to ensure that all excavations, where city employees are carrying out the excavation, or a contractor employed by the city, are carried out using either the sloping or trench boxes and shield safety methods. Under no circumstances shall the supervisor or manager permit an excavation of more than four feet in depth without using proper sloping or trench boxes and shields,

unless the public works supervisor has determined that the excavation is made entirely in stable rock, is less than four feet deep, or an examination of the ground finds no indication of a potential cave-in. (as added by Ord. #331, Dec. 2002)

**4-1303. Safety precautions.** (1) Stability of structures. Adjacent structures such as buildings, walls, sidewalks or pavements shall be shored, braced, or underpinned to ensure stability. Excavation shall not be undertaken below the level of the base or footing of any foundation or retaining wall unless

- (a) A support system such as underpinning is provided,
- (b) The excavation is in stable rock, or
- (c) A registered professional engineer determines that the structure is sufficiently removed from the excavation and that the excavation will not pose a hazard to employees.

Excavations under sidewalks and pavements are also prohibited unless an appropriately designed support system is provided.

(2) Installation and removal of protective systems. Installing support systems shall be undertaken in accordance with the following procedures for the protection of employees:

- X Securely connect members of support systems,
- X Safely install support systems,
- X Never overload members of support systems, and
- X Install other structural members to carry loads imposed on the support system when temporary removal of individual members is necessary.

Excavations of 2 feet or less below the bottom of the members of a support or shield system of a trench may be undertaken if

- (a) The system is designed to resist the forces calculated for the full depth of the trench, and
- (b) There are no indications, while the trench is open, of a possible cave-in below the bottom of the support system. Also, the installation of support systems must be closely coordinated with the excavation of trenches.

Upon completion of the work, the excavation should be back filled as the protective system is dismantled. After the excavation has been cleared, workers should slowly remove the protective system from the bottom up, taking care to release members slowly.

(3) Materials and equipment. The city of Smithville is responsible for the safe condition of materials and equipment used for protective systems. Defective and damaged materials and equipment can result in the failure of a protective system and cause excavation hazards.

- The public works supervisor of the City of Smithville must ensure that
- (a) Materials and equipment are free from damage or defects,

(b) Manufactured materials and equipment are used and maintained in a manner consistent with the recommendations of the manufacturer and in a way that will prevent employee exposure to hazards, and

(c) While in operation, damaged materials and equipment are examined by a competent person to determine if they are suitable for continued use. If materials and equipment are not safe for use, they must be removed from service. These materials cannot be returned to service without the evaluation and approval of a registered professional engineer. (as added by Ord. #331, Dec. 2002)

**4-1304. Other hazards.** (1) Exposure to falls, falling loads, and mobile equipment. In addition to cave-in hazards and secondary hazards related to cave-ins, there are other hazards from which workers must be protected during excavation related work. These hazards include exposure to falls, falling loads, and mobile equipment. To protect employees from these hazards, the public works supervisor shall take the following precautions:

- X Keep materials or equipment that might fall or roll into an excavation at least 2 feet from the edge of excavations, or have retaining devices, or both.
- X Provide warning systems such as mobile equipment, barricades, hand or mechanical signals, or stop logs, to alert operators of the edge of an excavation. If possible, keep the grade away from the excavation.
- X Provide scaling to remove loose rock or soil or install protective barricades and other equivalent protection to protect employees against falling rock, soil, or materials.
- X Prohibit employees from working on faces of sloped or benched excavations at levels above other employees unless employees at lower levels are adequately protected from the hazard of falling, rolling, or sliding material or equipment.
- X Prohibit employees under loads that are handled by lifting or digging equipment. To avoid being struck by a spillage or falling materials, require employees to stand away from vehicles being loaded or unloaded. If cabs of vehicles provide adequate protection from falling loads during loading and unloading operations, the operators may remain in them.

(2) Water accumulation. Employees are prohibited from working in excavations where water has accumulated or is accumulating unless adequate protection has been taken. If water removal equipment is used to control or prevent water from accumulating, the equipment and operations of the equipment must be monitored by a competent person to ensure proper use.

Diversion ditches, dikes, or other suitable means shall be used to prevent surface water from entering an excavation and to provide adequate drainage of

the area adjacent to the excavation. The supervisor of public works must inspect excavations subject to runoffs and heavy rains.

(3) Hazardous atmospheres. The public works supervisor shall test excavations greater than 4 feet in depth as well as ones where oxygen deficiency or a hazardous atmosphere exists or could reasonably be expected to exist, before an employee of the city enters the excavation. If hazardous conditions exist, controls such as proper respiratory protection or ventilation must be provided. Controls used to reduce atmospheric contaminants to acceptable levels must be tested regularly.

Where adverse atmospheric conditions may exist or develop in an excavation, the employer also must provide and ensure that emergency rescue equipment, (e.g., breathing apparatus, a safety harness and line, basket stretcher, etc.) is readily available and attended when used.

When an employee of the town enters bell-bottom pier holes and similar deep and confined footing excavations, the employees must wear a harness with a lifeline. The lifeline must be securely attached to the harness and must be separate from any line used to handle materials. While the employee wearing the lifeline is in the excavation, an observer must be present to ensure that the lifeline is working properly and to maintain communication with the employee.

(4) Access and egress. The City of Smithville must provide safe access and egress to all excavations. When employees are required to be in trench excavations 4 feet deep or more, adequate means of exit, such as ladders, steps, ramps or other safe means of egress, must be provided and be within 25 feet of lateral travel. If structural ramps are used as a means of access or egress, they must be designed by a professional engineer if used for employee access or egress, or a competent person qualified in structural design if used by vehicles. Structural members used for ramps and runways must be uniform in thickness and joined in a manner to prevent tripping or displacement. (as added by Ord. #331, Dec. 2002)

**TITLE 5****MUNICIPAL FINANCE AND TAXATION****CHAPTER**

1. REAL PROPERTY TAXES.
2. PRIVILEGE TAXES.
3. TAX COLLECTOR.

**CHAPTER 1****REAL PROPERTY TAXES****SECTION**

5-101. When due and payable.

5-102. When delinquent--penalty and interest.

**5-101. When due and payable.**<sup>1</sup> Taxes levied by the city against real property shall become due and payable annually on the first day of October of the year for which levied. (1976 Code, § 6-201)

**5-102. When delinquent--penalty and interest.**<sup>2</sup> All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and

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<sup>1</sup>State law references

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

<sup>2</sup>Charter and state law reference

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

interest as is authorized and prescribed by the state law for delinquent county real property taxes.<sup>1</sup> (1976 Code, § 6-202)

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<sup>1</sup>Charter and state law references

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

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under Tennessee Code Annotated, §§ 6-55-201--6-55-206.
- (3) By the county trustee under Tennessee Code Annotated, § 67-5-2005.

## CHAPTER 2

### PRIVILEGE TAXES

#### SECTION

5-201. Tax levied.

5-202. License required.

**5-201. Tax levied.** Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the City of Smithville at the rates and in the manner prescribed by the said act. (1976 Code, § 6-301)

**5-202. License required.** No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the secretary and treasurer to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1976 Code, § 6-302)

**CHAPTER 3****TAX COLLECTOR**<sup>1</sup>**SECTION**

5-301. Secretary and treasurer to serve as tax collector.

5-302. Bond of the tax collector.

**5-301. Secretary and treasurer to serve as tax collector.** The secretary and treasurer of the city shall serve as the tax collector of the city. (1976 Code, § 1-501)

**5-302. Bond of the tax collector.** The bond required of the secretary and treasurer by § 1-301 of this code shall also cover him in his capacity as tax collector. (1976 Code, § 1-502)

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<sup>1</sup>Charter references

Appointment: § 5.

Compensation: § 5.

## TITLE 6

### LAW ENFORCEMENT<sup>1</sup>

#### CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

#### CHAPTER 1

### POLICE AND ARREST<sup>2</sup>

#### SECTION

- 6-101. Policemen to be bonded.
- 6-102. Policemen to wear uniforms and be armed.
- 6-103. When policemen to make arrests.
- 6-104. Unlawful to resist or interfere with an officer.
- 6-105. Standards for selection and training of police officers.
- 6-106. Police officers to wear protective body armor while on duty.

**6-101. Policemen to be bonded.** All policemen shall be covered by a blanket faithful performance bond in the amount of five thousand dollars (\$5,000). (1976 Code, § 1-601)

**6-102. Policemen to wear uniforms and be armed.** All policemen shall wear prescribed uniforms and badges and shall carry service pistols and billy clubs at all times while on duty unless otherwise expressly directed by the mayor. (1976 Code, § 1-602)

**6-103. When policemen to make arrests.**<sup>3</sup> Unless otherwise authorized or directed in this code or other applicable law, arrests of the person shall be made by city policemen in the following cases:

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<sup>1</sup>The Smithville Police Policies and Procedures Manual, and any amendments thereto, are of record in the city recorder's office.

<sup>2</sup>Charter references

Appointment of chief of police: § 5.  
Policemen-powers and duties: § 12.  
Special policemen: § 6.

<sup>3</sup>Municipal code reference

Traffic citations, etc.: title 15.

- (1) Whenever he is in possession of a warrant for the arrest of the person.
- (2) Whenever an offense has been committed by a person in the officer's presence.
- (3) Whenever an offense has been in fact committed and the officer has reasonable and probable cause to believe the person has committed it. (1976 Code, § 1-603)

**6-104. Unlawful to resist or interfere with an officer.** It shall be unlawful for any person to resist or interfere with, or attempt to resist, interfere with, or incite others to resist or interfere with, any police officer who is in the apparent discharge of his duties. (1976 Code, § 1-604)

**6-105. Standards for selection and training of police officers.** The City of Smithville does hereby adopt and approve the standards for selection and training of police officers as prescribed in Tennessee Code Annotated, title 38, chapter 8. (1976 Code, § 1-605)

**6-106. Police officers to wear protective body armor while on duty.** (1) To promote safety in the work place, it is the intent of the City of Smithville to purchase and make available protective body armor (safety vests) for all Smithville police officers, including the chief of police.

(2) All police officers on patrol, or engaged in the enforcement of laws, are hereby required to wear protective body armor (safety vests) that is provided by the city, at all times while on duty.

(3) Failure to comply with subsection (2) of this section shall result in disciplinary action up to and including dismissal. (as added by Ord. #323, May 2002)

## CHAPTER 2

### WORKHOUSE

#### SECTION

6-201. City jail to be used.

6-202. Inmates to be worked.

6-203. Inmates to be humanely treated.

6-204. Compensation of inmates.

**6-201. City jail to be used.** The city jail is hereby designated as the city workhouse. (1976 Code, § 1-801)

**6-202. Inmates to be worked.** All persons committed to the workhouse shall be required to perform such public work or labor as the chief of police may lawfully prescribe. (1976 Code, § 1-802)

**6-203. Inmates to be humanely treated.** All workhouse inmates shall be furnished with adequate food and water, provided with clean quarters and sanitary facilities, and shall otherwise be humanely treated. (1976 Code, § 1-803)

**6-204. Compensation of inmates.** Workhouse inmates shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines assessed against them. (1976 Code, § 1-804)

**TITLE 7**

**FIRE PROTECTION AND FIREWORKS<sup>1</sup>**

**CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. VOLUNTEER FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.
5. FIREWORKS.

**CHAPTER 1**

**FIRE DISTRICT**

**SECTION**

7-101. Fire limits described.

**7-101. Fire limits described.** The corporate fire limits shall be that area bounded on the north by Church Street, on the South by Webb Street, on the east by the First Street, and on the west by Mountain Street. (1976 Code, § 7-101)

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

## CHAPTER 2

### FIRE CODE<sup>1</sup>

#### 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. Variances.
- 7-207. Violations and penalties.

**7-201. Fire code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 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 Standard Fire Prevention Code,<sup>2</sup> 1994 edition, as recommended by the Southern Standard Building Code Congress International, Inc. is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire prevention code has been filed with the city's secretary and treasurer and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1976 Code, § 7-201, modified)

**7-202. Enforcement.** The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1976 Code, § 7-202)

**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 Smithville, Tennessee. (1976 Code, § 7-203)

**7-204. Storage of explosives, flammable liquids, etc.** The limits referred to in § 1901.4.2 of the fire prevention code, in which storage of explosive

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

<sup>2</sup>Copies of this code are available from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206.

materials is prohibited, is hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 902.1.1 of the fire prevention code, in which storage of flammable or combustible liquids in outside above ground tanks is prohibited, is hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, is hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the fire limits as set out in § 7-101 of this code. (1976 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. (1976 Code, § 7-205)

**7-206. Variances.** The chief of the fire department may recommend to the board of mayor and aldermen variances from 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 shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board. (1976 Code, § 7-206)

**7-207. Violations and penalties.** It shall be unlawful for any person to violate any of the provisions of this chapter or the Standard Fire Prevention Code herein 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 board of mayor and aldermen 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. (1976 Code, § 7-207)

## CHAPTER 3

### VOLUNTEER FIRE DEPARTMENT<sup>1</sup>

#### SECTION

- 7-301. Creation and objective.
- 7-302. Composition.
- 7-303. Election, term, and qualifications of chief; removal.
- 7-304. Chain of command.
- 7-305. Election and removal of subordinate officers.
- 7-306. General duties of the chief.
- 7-307. Chief responsible for organization of department.
- 7-308. Chief responsible for training of personnel.
- 7-309. Chief to assist in suppressing arson, etc.
- 7-310. Inspection authority.
- 7-311. Abatement of fire hazards.
- 7-312. Records to be kept.
- 7-313. Reports required.
- 7-314. Membership generally.
- 7-315. Equipment generally.
- 7-316. Alarm system.
- 7-317. Trespassing at fire stations.
- 7-318. Badges for firemen.
- 7-319. Enforcement of chapter.
- 7-320. Social officers.

**7-301. Creation and objective.** There is hereby created and established a department to be known as the Smithville Fire Department, the object of which shall be the prevention, fighting, control, and extinguishment of fires and the protection of life and property within the City of Smithville, Tennessee. (1976 Code, § 7-301)

**7-302. Composition.** The department shall consist of a chief and one assistant chief and such other officers as the chief and the board of mayor and aldermen deem necessary for the effective operation of the department. (1976 Code, § 7-302)

**7-303. Election, term, and qualifications of chief; removal.** The chief shall be elected by the volunteer firemen and approved by the board of

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<sup>1</sup>Municipal code reference

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

mayor and aldermen for a period of one (1) year. He shall be qualified by training and experience and capable, both mentally and physically, to perform his duties. He may be removed only for just cause by the alderman in charge of the police and fire departments and subject to his appeal to the membership of the volunteer fire department, if requested within five (5) days after removal. The action of the alderman may be overruled by a two-thirds (2/3) vote of the firemen. In the event the removal is sustained, an appeal may be had to the board of mayor and aldermen sitting as a trial tribunal, a majority constituting a quorum. A two-thirds (2/3) vote of those present shall be required to overrule the removal. The action of this board shall be final. (1976 Code, § 7-303)

**7-304. Chain of command.** The chief shall be accountable only to the board of mayor and aldermen, and shall make such written and/or verbal reports as the board may require. All other fire department officers and personnel shall be accountable to the chief of the fire department. (1976 Code, § 7-304)

**7-305. Election and removal of subordinate officers.** The assistant chiefs, captains, and all other fire department and fire companies' personnel shall be elected by the fire department personnel, subject to final approval by the board of mayor and aldermen. Such appointees shall be accountable and subject only to the chief of the fire department and may be removed by him for cause at any time with and by the consent and approval of the alderman in charge of the police and fire departments, which action by said chief and said alderman shall be final. (1976 Code, § 7-305)

**7-306. General duties of the chief.** The chief shall formulate a set of rules and regulations to govern the fire department in accordance with and subject to the rules, regulations, and requirements of the State of Tennessee, and shall be responsible to the board of mayor and aldermen for the personnel, morale, and general efficiency of the fire department. (1976 Code, § 7-306)

**7-307. Chief responsible for organization of department.** The chief shall determine the number and kinds of companies, in consideration of the equipment furnished by the city, of which the department is to be composed and shall determine which companies and personnel shall respond to fire alarms, and shall have general and absolute control of the equipment and personnel making up the fire department of said city. (1976 Code, § 7-307)

**7-308. Chief responsible for training of personnel.** The chief shall conduct suitable drills and instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of the buildings in the city, fire prevention, water supplies, and all other matters generally considered

essential to good firemanship and safety of life and property pertaining to fire, and shall and is hereby authorized to cooperate with all state and federal agencies in reference thereto. (1976 Code, § 7-308)

**7-309. Chief to assist in suppressing arson, etc.** The chief and his assistants are hereby authorized, directed, and required to assist all legal authorities in suppressing the crime of arson and the causes, or origin and circumstances, of all fires and to report same to the duly constituted authorities. (1976 Code, § 7-309)

**7-310. Inspection authority.** The chief, assistant chiefs, and captains of the fire companies are hereby empowered to enter any and all buildings and premises at any and all reasonable times for the purpose of making fire risk inspections and to notify, in writing, the owner or occupant thereof of any and all fire hazards that they may find. (1976 Code, § 7-310)

**7-311. Abatement of fire hazards.** Any person, firm, or corporation so notified by the fire department to abate any fire hazard or hazards shall comply therewith and promptly notify the fire department of said city. (1976 Code, § 7-311)

**7-312. Records to be kept.** The chief, or his duly authorized representatives, shall see that complete and adequate records are kept at all times in reference to inspections, fires, active or false alarms, apparatus and equipment, personnel and other pertinent information about the work and activities of the fire department. (1976 Code, § 7-312)

**7-313. Reports required.** The chief shall report monthly to the secretary-treasurer of the City of Smithville the number and places of fires during the preceding month and the number of false alarms and of any other activities in which the service of the fire department was required, including first aid not directly connected with fire alarms. He shall also report any changes, substitutions, or displacement of the membership of the volunteer fire department. (1976 Code, § 7-313)

**7-314. Membership generally.** The membership of the fire department shall consist of such persons as may be elected by the department and approved by the board of mayor and aldermen and shall be able bodied male citizens, preferably property owners, whose business activities are normally within said city and who have telephones or other means of rapid communication.

Any member of the fire department may be suspended or discharged from the department by the chief at any time he may deem such action necessary for the good of the fire department. Any member so discharged shall have the right

of appeal as hereinbefore provided governing the chief and his assistants. (1976 Code, § 7-314)

**7-315. Equipment generally.** The department shall be equipped with such apparatus and other equipment as may be required from time to time, and as the city is financially able to furnish, to maintain its efficiency as recommended and requested by the State of Tennessee for the adequate and proper protection of life and property in the City of Smithville, Tennessee, from fire.

All equipment of the fire department shall be conveniently housed in such places as may be designated by the board of mayor and aldermen. All auxiliary equipment, as designated by the chief, and such places shall be under the direct supervision and control of the chief and his assistants. (1976 Code, § 7-315)

**7-316. Alarm system.** Suitable arrangements may be made and provided for the citizens to turn in fire alarms and for notifying all members of the department so that they may promptly respond. (1976 Code, § 7-316)

**7-317. Trespassing at fire stations.** No person shall enter any place where fire apparatus or equipment is housed nor shall such person or persons handle or otherwise interfere with such apparatus or equipment belonging to the department, except firemen and other officials of the city duly and properly authorized to do so. (1976 Code, § 7-317)

**7-318. Badges for firemen.** Each member of the fire department may be issued a badge or other insignia designated by the chief to show his rank in said department. (1976 Code, § 7-319)

**7-319. Enforcement of chapter.** All regularly appointed and designated officers of the fire department of the City of Smithville are empowered to enforce the provisions of this chapter as special policemen.

It is hereby made the duty of the chief of police and/or other officers who may be on duty, to respond to all fire alarms and assist the fire department in the protection of life and property and in regulating traffic, maintaining order, and otherwise enforcing the observance of all other sections of this chapter. (1976 Code, § 7-320)

**7-320. Social officers.** The department may elect a president, vice-president, secretary, and treasurer, any of which offices may be combined, and such other officers as necessary, to be known as social, administrative, and financial officers. Such officers may be elected in any manner and for any term the membership may decide upon, and their duties shall be as prescribed by the membership of the fire department.

The functions and duties of said officers shall in nowise interfere with the duties of the regular fire department officers who are charged with the responsibility for all fire service activities of the department. (1976 Code, § 7-321)

## CHAPTER 4

### FIRE SERVICE OUTSIDE CITY LIMITS

#### SECTION

7-401. Use of equipment outside city.

**7-401. Use of equipment outside city.** No fire-fighting equipment, apparatus, or equipment shall be permitted to leave the city limits of the City of Smithville, except as authorized and permitted by the laws of the State of Tennessee, either general or special.<sup>1</sup> However, the personnel of the fire department may, without liability or obligation on the part of the city, respond to calls beyond the corporate limits, and use the equipment of the city, provided that the absence of such equipment responding to outside calls will not in any way jeopardize or effect the protection, with adequate equipment, of any and all fire calls and alarms within the city. Any and all responses outside of said city shall be wholly and fully the action of the personnel of the fire department. (1976 Code, § 7-318)

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<sup>1</sup>Mutual aid agreement, dated October 1, 1993, between the City of Smithville Volunteer Fire Department and DeKalb County Fire Department is of record in the city recorder's office.

## CHAPTER 5

### FIREWORKS

#### SECTION

7-501. Sale or possession in corporate limits.

7-502. Use of fireworks within the central business district.

7-503. "Combustible materials and explosives" defined.

7-504. Violations and penalties.

7-505. Conflicts with TCA.

**7-501. Sale or possession in corporate limits.** It shall be unlawful, and a violation of the laws of the City of Smithville, Tennessee, for any person, firm, corporation, partnership, legal entity, or otherwise, to sell, or possess for the purpose of sale, any combustible materials or explosives within the corporate limits of the City of Smithville, Tennessee, except controlled combustible materials and explosives as hereinafter defined. (Ord. #167, Dec. 1982)

**7-502. Use of fireworks within the central business district.** It shall be unlawful, and a violation of the laws of the City of Smithville, Tennessee, for any person to use, fire or discharge any firecrackers, fireworks, roman candles, or like or similar explosive or combustible materials within the Central Business District of the City of Smithville, Tennessee except controlled combustible materials and explosives as hereinafter defined. (Ord. #167, Dec. 1982)

**7-503. "Combustible materials and explosives" defined.** The term "combustible materials and explosives" shall mean, and be limited to, combustible materials and explosives, fired or ignited by, and under the control of, the appropriate city officials of the City of Smithville in connection with entertainment or displays designated by the city as such. (Ord. #167, Dec. 1982)

**7-504. Violations and penalties.** Any violation of this chapter shall be a misdemeanor, and any person, firm, corporation, partnership, legal entity, or otherwise convicted of such violation shall be subject to arrest and a fine of not less than two dollars (\$2.00) and not more than fifty dollars (\$50.00), within the discretion of the city court. (Ord. #167, Dec. 1982)

**7-505. Conflicts with TCA.** Whenever, and wherever, this chapter is, or becomes in conflict with Tennessee Code Annotated, title 68, chapter 104, the provisions of said Tennessee Code Annotated shall take precedence. (Ord. #167, Dec. 1982)

**TITLE 8****ALCOHOLIC BEVERAGES<sup>1</sup>****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

**CHAPTER 1****INTOXICATING LIQUORS****SECTION**

8-101. Prohibited generally.

**8-101. Prohibited generally.** Except as authorized by applicable laws and/or ordinances<sup>2</sup> it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this municipality. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1976 Code, § 2-101)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference  
Tennessee Code Annotated, title 39, chapter 17.

## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Requirements necessary to be eligible for a beer permit.
- 8-209. Interference with public health, safety, and morals prohibited.
- 8-210. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-211. Prohibited conduct or activities by beer permit holders.
- 8-212. Grandfather clause.
- 8-213. Revocation of beer permits.
- 8-214. Privilege tax.
- 8-215. Transfer of permits.
- 8-216. Notice of violations.

**8-201. Beer board established.** There is hereby established a beer board to be composed of five (5) members appointed by the governing body. All members of the beer board shall be citizens of the municipality. They shall be appointed for five (5) year terms except that the first members shall expire each year thereafter. A chairman shall be elected annually by the board from among its members. Members of the beer board shall serve without compensation. All members presently serving are hereby appointed to continue in their capacity of members of the Smithville Beer Board until the expiration of their terms. Any member of the beer board may be removed by the governing body with cause. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board a special meeting may be called by the chairman provided he

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<sup>1</sup>State law reference

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

gives reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-203. Record of beer board proceedings to be kept.** The secretary shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc. before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-204. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-205. Powers and duties of the beer board.** The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter subject to the provisions contained herein. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-207. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Smithville. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-208. Requirements necessary to be eligible for a beer permit.**

Before a beer permit is issued to any applicant, the applicant must show proof of ownership of twenty-five thousand dollars (\$25,000.00) (WHOLESALE VALUE) in grocery stock, excluding all tobacco products, gasoline, petroleum products, antifreeze, and beer. Further, should a beer permit be granted to an applicant, the then beer permit holder must maintain at all times on the premises where beer is to be sold a minimum grocery stock of twenty-five thousand dollars (\$25,000.00) (WHOLESALE VALUE), excluding all tobacco products, gasoline, petroleum products, antifreeze, and beer. The holder of a beer permit must provide at least one (1) inventory per year to the Smithville Beer Board, said inventory to be submitted no later than April 15 of each year. Moreover, the inventory submitted annually to the Smithville Beer Board by the permit holder shall be performed by a business entity whose principal or predominant business is that of conducting inventories. Further, the accuracy of said inventory shall be sworn to and affirmed before a notary public by the agent or employee of the business entity retained to conduct the inventory. Moreover, the Smithville Beer Board shall have the authority to request additional inventories during the year, and each holder of a beer permit shall be obligated to provide the Smithville Beer Board with any requested inventory. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-209. Interference with public health, safety, and morals prohibited.**

No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the storage, sale, or manufacture of beer at places within four hundred (400) feet of any school, church, or other such place of public gathering. The term "place of public gathering" as used herein shall include, but not be limited to, all such places as defined by applicable state law. Further, such definition shall include any and all public buildings, whether such public buildings are owned by a governmental entity or agency or leased by a governmental entity or agency, a church, or school. The distance requirement contained herein shall be measured in a straight line from the primary entrance of the establishment seeking a permit to sell beer to the primary entrance of the school, church, or other place of public gathering. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-210. Issuance of permits to persons convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, illicit drugs, or any crime involving moral turpitude within the past ten

(10) years. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-211. Prohibited conduct or activities by beer permit holders.** It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, illicit drugs, or any crime involving moral turpitude within the past ten (10) years;

(2) Make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any night of the week, at any time on Sunday, and at any time on Christmas Day;

(3) Allow any loud, unusual, or obnoxious noises to emanate from his premises;

(4) Make or allow any sale of beer to a minor under twenty-one (21) years of age;

(5) Allow any minor under twenty-one (21) years of age to loiter in or about his or her place of business;

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

(7) Allow the consumption on his premises of any beer whether sold from his premises or elsewhere;

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

(9) Allow dancing on his premises;

(10) Allow pool or billiard playing in the same room where beer is sold;

(11) Advertise within the business establishment in any manner visible from off the premises of said establishment the price or location of beer on the premises of the establishment;

(12) Violate any other law or ordinance. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-212. Grandfather clause.** No beer permit holder shall be precluded or prohibited from selling beer at the beer permit holder's business establishment where a school, church, or other such place of public gathering becomes located within four hundred (400) feet of the primary entrance of said business establishment at any time subsequent to the issuance of the permit holder's beer permit. (as added by Ord. #361, June 2004)

**8-213. Revocation of beer permits.** The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his or her application or of violating any of the provisions of this chapter, or upon being convicted of any violation of state law regarding

the sale, storing for sale, distribution for sale, or manufacturing of alcoholic beverages. However, no beer permit shall be revoked until public hearing is held by the board after at least five days' notice, exclusive of the date of service, to all the known parties in interest. Revocation proceedings may be initiated by the police chief, the city attorney, any member of the municipal governing body, or the Smithville Beer Board. Upon the finding of any violation by any permit holder, the punishment for the first offense shall be a minimum suspension of the beer permit for a period of ninety (90) days. Upon any permit holder committing a violation a second time, the punishment shall be the revocation of the beer license. Nothing contained herein shall prevent the beer board from revoking the license for any first offense violation of this chapter. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-214. 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, 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 Smithville, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-215. Transfer of permits.** There shall be no transfer of a beer permit from one licensee to another. Further, in the event that a permit holder ceases to conduct business, whether by selling the business or otherwise, the permit holder shall surrender his or her beer permit within three (3) consecutive business days after ceasing to do business. Further, the permit holder shall surrendered the permit directly to the chief of police, the city attorney, the mayor, or the chairman of the beer board. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

**8-216. Notice of violations.** Whenever any permit holder shall be deemed by the Smithville Beer Board to have violated any of the provisions of this chapter, that permit holder shall be notified by certified, return-receipt mail. This notice shall set forth the allegations against the permit holder and shall inform the permit holder of the date, time, and place of the meeting where said violation will be adjudicated by the Smithville Beer Board. (as added by Ord. #308, Nov. 2000, and replaced by Ord. #361, June 2004)

**TITLE 9****BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS.
3. SOLICITORS AND CANVASSERS.
4. CHARITABLE SOLICITORS.
5. TAXICABS.
6. POOL ROOMS.
7. CABLE TELEVISION.
8. BOWLING ALLEYS.

**CHAPTER 1****MISCELLANEOUS****SECTION**

9-101. Sunday operations prohibited; exceptions.

**9-101. Sunday operations prohibited; exceptions.** It shall be unlawful for any person to open any store or place of business and sell any goods, wares or merchandise on Sunday except that the prohibitions of this section shall not be applied to drug stores, restaurants, or service stations. (1976 Code, § 5-101)

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<sup>1</sup>Municipal code references

Building, plumbing, wiring and housing regulations: title 12.

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

## CHAPTER 2

### PEDDLERS<sup>1</sup>

#### SECTION

- 9-201. "Peddler" defined.
- 9-202. Permits required.
- 9-203. Application for permit.
- 9-204. Content or form of permit.
- 9-205. Exhibition of permit.
- 9-206. Hours and place of business.
- 9-207. Revocation or suspension of permit.
- 9-208. Expiration and renewal of permit.

**9-201. "Peddler" defined.** Any person, whether or not a resident of the city, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, house to house, or street to street, carrying, conveying, or transporting goods, wares, merchandise, fish, vegetables, fruits or other products or provisions, and offering and exposing them for sale; or who, without traveling from place to place, sells or offers for sale such products from a wagon, automotive vehicle or other conveyance is hereby defined to be a "peddler." A "peddler" shall also include any "hawker," "huckster," or "street vendor" but shall exclude any solicitor licensed under the provisions of the preceding chapter. (1976 Code, § 5-501)

**9-202. Permits required.** No person shall act as a peddler unless he has obtained a permit from the secretary and treasurer. (1976 Code, § 5-502)

**9-203. Application for permit.** Each applicant for a peddler's permit shall file an application stating and/or containing the following:

- (1) Name of the applicant.
- (2) Brief description of the nature of the goods to be sold.
- (3) If employed, the name and address of the employer.
- (4) If a vehicle is to be used, a description of it together with the license number or other means of identification.
- (5) Evidence of the good moral character of the applicant. (1976 Code, § 5-503)

**9-204. Content or form of permit.** Each permit issued under the provisions of this chapter shall show the name and address of the peddler, the

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.

kind of goods to be sold, the date of issuance, the permit number, and the identifying description of any vehicle used by the peddler. (1976 Code, § 5-504)

**9-205. Exhibition of permit.** All peddlers shall exhibit their permits to any police officer or person solicited, upon demand. (1976 Code, § 5-505)

**9-206. Hours and place of business.** No peddler shall engage in the business of peddling:

- (1) During the hours of darkness.
- (2) On Sunday.
- (3) Within two hundred (200) feet of a public market house.
- (4) Within two hundred (200) feet of a curb market. (1976 Code, § 5-506)

**9-207. Revocation or suspension of permit.** Any permit issued under the provisions of this chapter may be suspended or revoked by the board of mayor and aldermen for any of the following reasons:

- (1) Fraud, misrepresentation, or false statement contained in the application for the permit.
- (2) Fraud, misrepresentation, or false statement in the course of carrying on the business of peddling.
- (3) Conviction of any crime involving moral turpitude.
- (4) Conducting the business of peddling in such a manner as to create a public nuisance, cause a breach of the peace, or constitute a danger to the public health, safety, or welfare.
- (5) Allowing another to use said permit. (1976 Code, § 5-507)

**9-208. Expiration and renewal of permit.** Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1976 Code, § 5-508)

## CHAPTER 3

### SOLICITORS AND CANVASSERS<sup>1</sup>

#### SECTION

- 9-301. Permit required.
- 9-302. Application for permit.
- 9-303. Bond to be required.
- 9-304. Exhibition of permit.
- 9-305. Permit not transferable.
- 9-306. Revocation of permit.
- 9-307. Expiration and renewal of permit.

**9-301. Permit required.** It shall be unlawful for any person, firm, or corporation, whether a resident of the city or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for the sale of goods, wares, or merchandise, including magazines, books, periodicals, or personal property of any nature whatsoever for future delivery, or for services to be performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders, to induce or invite such orders, without having first applied for and received from the secretary and treasurer a solicitor's permit. This chapter shall also apply to any person who, for himself, or for another person, firm, or corporation hires, leases, uses, or occupies any building, motor vehicle, trailer, structure, tent, hotel room, lodging house, apartment, shop or other place within the city for the primary purpose of exhibiting samples and taking orders for future delivery. (1976 Code, § 5-401)

**9-302. Application for permit.** Any person desiring to secure a solicitor's permit shall apply therefor, in writing, to the secretary and treasurer. The application shall state and/or contain:

- (1) Name of applicant.
- (2) Complete permanent home and local address of applicant.
- (3) 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.

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.

(6) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof; where such goods or products are located at the time said application is filed; and, the proposed method of delivery.

(7) The last cities or towns not to exceed three (3), where the applicant carried on business immediately preceding the date of application and the addresses from which such business was conducted in those municipalities.

(8) A personal description and complete identification of the applicant.

(9) Such other credentials and evidence of the good moral character and identity of the applicant as may be reasonably required by the secretary and treasurer. (1976 Code, § 5-402)

**9-303. Bond to be required.** Each application for a solicitor's permit shall be accompanied by a surety bond, or a personal bond executed by two (2) good and sufficient sureties who are bona fide residents of the city. The bond shall be payable to the city in the amount of five hundred dollars (\$500.00) conditioned that the applicant shall comply fully with all the provisions of this code and the state law regulating solicitors and canvassers. It shall guarantee to all residents of the city that all money paid as a down payment will be accounted for and applied according to the representations made, that the property purchased will be delivered according to such representations, will be as represented by him, and that he will refund the purchase price of any goods sold by him which are not as represented. Action on such bond may be brought by the person or persons 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. (1976 Code, § 5-403)

**9-304. Exhibition of permit.** The solicitor's permit shall be carried at all times by the applicant to whom issued when soliciting or canvassing in the city and shall be exhibited upon the request of any police officer or person solicited. (1976 Code, § 5-404)

**9-305. Permit not transferable.** No solicitor's permit shall be used at any time by any person other than the one to whom it is issued. (1976 Code, § 5-405)

**9-306. Revocation of permit.** Any solicitor's permit may be revoked by the board of mayor and aldermen for violations by the holder thereof of any of the provisions of this code or of the state or federal law, or whenever the holder of such permit shall cease to possess the character and qualifications required by this chapter for the issuance of such permit. (1976 Code, § 5-406)

**9-307. Expiration and renewal of permit.** Permits issued under the provisions of this chapter shall expire on the same date that the permittee's

privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1976 Code, § 5-407)

## CHAPTER 4

### CHARITABLE SOLICITORS

#### SECTION

- 9-401. Permit required.
- 9-402. Prerequisites for a permit.
- 9-403. Denial of a permit.
- 9-404. Exhibition of permit.

**9-401. Permit required.** No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the secretary and treasurer authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1976 Code, § 5-601)

**9-402. Prerequisites for a permit.** The secretary and treasurer shall, upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

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

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

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

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1976 Code, § 5-602)

**9-403. Denial of a permit.** Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1976 Code, § 5-603)

**9-404. 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. (1976 Code, § 5-604)

## CHAPTER 5

### TAXICABS<sup>1</sup>

#### SECTION

- 9-501. Taxicab franchise and privilege license required.
- 9-502. Requirements as to application and hearing.
- 9-503. Liability insurance or bond required.
- 9-504. Revocation or suspension of franchise.
- 9-505. Mechanical condition of vehicles.
- 9-506. Cleanliness of vehicles.
- 9-507. Inspection of vehicles.
- 9-508. License and permit required for drivers.
- 9-509. Qualifications for driver's permit.
- 9-510. Revocation or suspension of driver's permit.
- 9-511. Drivers not to solicit business.
- 9-512. Parking restricted.
- 9-513. Drivers to use direct routes.
- 9-514. Taxicabs not to be used for illegal purposes.
- 9-515. Miscellaneous prohibited conduct by drivers.
- 9-516. Transportation of more than one passenger at the same time.

**9-501. Taxicab franchise and privilege license required.** It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the city and has a currently effective privilege license. (1976 Code, § 5-301)

**9-502. Requirements as to application and hearing.** No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the secretary and treasurer of the city. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the secretary and treasurer may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the board of mayor and

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.

aldermen; and make a recommendation to either grant or refuse a franchise to the applicant. The board shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the board shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1976 Code, § 5-302)

**9-503. Liability insurance or bond required.** No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the secretary and treasurer of the city. (1976 Code, § 5-303)

**9-504. Revocation or suspension of franchise.** The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1976 Code, § 5-304)

**9-505. Mechanical condition of vehicles.** It shall be unlawful for any person to operate any taxicab in the city 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 motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1976 Code, § 5-305)

**9-506. 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. (1976 Code, § 5-306)

**9-507. Inspection of vehicles.** All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1976 Code, § 5-307)

**9-508. License and permit required for drivers.** No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1976 Code, § 5-308)

**9-509. Qualifications for driver's permit.** No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the city who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1976 Code, § 5-309)

**9-510. Revocation or suspension of driver's permit.** The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-509. (1976 Code, § 5-310)

**9-511. Drivers not to solicit business.** All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the city for the purpose of obtaining patronage for their cabs. (1976 Code, § 5-311)

**9-512. 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 city for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging

passengers if such stops are made in such manner as not to interfere unreasonably with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1976 Code, § 5-312)

**9-513. Drivers to use direct routes.** Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1976 Code, § 5-313)

**9-514. 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. (1976 Code, § 5-314)

**9-515. Miscellaneous prohibited conduct by drivers.** It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the city in any way. (1976 Code, § 5-315)

**9-516. 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. (1976 Code, § 5-316)

## CHAPTER 6

### POOL ROOMS<sup>1</sup>

#### SECTION

9-601. Hours of operation.

9-602. Minors to be kept out; exception.

**9-601. Hours of operation.** It shall be unlawful for the operator of any pool room, or any of his employees, to allow such pool room to be open for business at any time on Sundays or on weekdays and nights except between the hours of 6:00 a.m. and 11:00 p.m. (1976 Code, § 5-201)

**9-602. Minors to be kept out; exception.** It shall be unlawful for the operator of any pool room, or any of his employees, to allow minors under the age of eighteen (18) years to visit in, loiter in or around, or to play pool or any other game therein unless said minor's parent or guardian has given him a written, dated, and signed permission which has been filed with the owner or operator of the pool room. It shall be the duty of the operator of the pool room, immediately upon receiving the written permission, to file with the chief of police the name of the minor having such permission together with the name of the parent or guardian signing same. A written permission obtained after a violation of this section shall not be a defense to prosecution of such violation. (1976 Code, § 5-202)

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.

**CHAPTER 7**

**CABLE TELEVISION**

**SECTION**

9-701. To be furnished under franchise.

**9-701. To be furnished under franchise.** Cable television service shall be furnished to the City of Smithville and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of Smithville and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #138 dated October, 1979, Ord. #322, May 2002, and any amendments, in the office of the city recorder.

**CHAPTER 8****BOWLING ALLEYS**<sup>1</sup>**SECTION**

9-801. Not to disturb public, etc.

9-802. Buildings must be sound-proof.

**9-801. Not to disturb public, etc.** It shall be unlawful for any person to maintain or operate any bowling alley or similar game or device in any place or location within the city where it will interfere with or disturb the quietude of the public generally and/or the operation of any other legitimate business. (1976 Code, § 5-701)

**9-802. Buildings must be sound-proof.** No bowling alley shall be maintained or operated adjacent to any other building unless the building housing the bowling alley is so constructed and prepared as to be in fact sound-proof. (1976 Code, § 5-702)

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.

**TITLE 10****ANIMAL CONTROL<sup>1</sup>****CHAPTER**

1. IN GENERAL.
2. DOGS.

**CHAPTER 1****IN GENERAL****SECTION**

- 10-101. Running at large prohibited.
- 10-102. Seizure and disposition for running at large.
- 10-103. Keeping in such manner as to become a nuisance.
- 10-104. Pen or enclosure to be kept clean.
- 10-105. Adequate water, shelter, etc., to be provided.
- 10-106. Cruelty to animals.
- 10-107. Not to be left unattended or hitched to utility poles, etc.
- 10-108. Bells not to be put on cows.
- 10-109. Restriction on keeping hogs.
- 10-110. Commercial butchering prohibited.

**10-101. Running at large prohibited.** It shall be unlawful for any person owning or being in charge of any cattle, cows, swine, sheep, horses, mules, goats, or other domestic animal, or any chickens, ducks, geese, turkeys, or other domestic fowl, to permit them, or any of them, to run at large within the city. (1976 Code, § 3-101)

**10-102. Seizure and disposition for running at large.** Any animal or fowl found running at large in violation of the preceding section may be seized by the health officer or any police officer and impounded in a suitable place provided or designated by the board of mayor and aldermen. The owner of any such impounded animal or fowl, if known, shall be notified immediately, either personally or by telephone or post card, to claim his animal or fowl by payment of the pound fee of one dollar and fifty cents (\$1.50) plus actual expenses incurred by the city, within ten (10) days. If the owner is not known, then a public notice briefly describing the impounded animal or fowl and giving notice

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<sup>1</sup>Charter reference

Regulation and impoundment of animals: § 3(19).

of its impoundment and the time it may be claimed shall be posted in at least three (3) public places within the city or run three (3) times in a local newspaper. In the event an impounded animal or fowl is not claimed and the costs paid within ten (10) days, it may be sold, given away, or otherwise humanely disposed of by the chief of police. When a sale is made, any proceeds over and above the costs incurred by the city shall be remitted to the owner of the animal or fowl sold, if known. Otherwise any such surplus shall be paid into the general fund of the city. (1976 Code, § 3-102)

**10-103. 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. (1976 Code, § 3-103)

**10-104. Pen or enclosure to be kept clean.** When animals or fowls are kept within the city, the building, structure, corral, pen or enclosure in which they are kept shall be maintained in a clean and sanitary condition at all times. (1976 Code, § 3-104)

**10-105. Adequate water, shelter, etc., to be provided.** No animals or fowls of any kind shall be kept or confined in any place where the water, shelter, ventilation and food are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended. (1976 Code, § 3-105)

**10-106. Cruelty to animals.** It shall be unlawful for any person to be guilty of cruel and inhumane treatment of any dumb animal. (1976 Code, § 3-106)

**10-107. Not to be left unattended or hitched to utility poles, etc.** No person shall leave any unattended horse, mule or other animal standing on any public street or alley within the city. Furthermore, it shall be unlawful for any person to hitch any animal to any utility or telephone pole or to any parking meter within the city. (1976 Code, § 3-107)

**10-108. Bells not to be put on cows.** It shall be unlawful for any person to attach or put any bell on any cow or cattle. (1976 Code, § 3-108)

**10-109. Restriction on keeping hogs.** No hogs or pigs shall be kept within the city except on farming lands. For the purpose of this section, no field less than one (1) acre in extent shall be classed as farming lands and no more than one hog or pig shall be kept for each acre of farming land. (1976 Code, § 3-109)

**10-110. Commercial butchering prohibited.** No person, firm or corporation shall butcher any beef, hog, or sheep for commercial purposes within the city. (1976 Code, § 3-110)

## CHAPTER 2

### DOGS

#### SECTION

- 10-201. Definitions.
- 10-202. Rabies vaccination and registration required.
- 10-203. Dogs to wear tags.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Confinement of female dogs in season.
- 10-206. Running at large prohibited.
- 10-207. Impoundment and sale of dogs running at large.
- 10-208. Protection for dogs.
- 10-209. Barking or howling dogs.
- 10-210. Emergency power.
- 10-211. Vicious dogs.
- 10-212. Concealing dogs.
- 10-213. Authority of rabies control officer.
- 10-214. Rabies control officer under jurisdiction of police department.
- 10-215. Destruction of dogs previously found to be vicious.
- 10-216. Bond.
- 10-217. City responsibility while confined.
- 10-218. Stealing dog tags.
- 10-219. Disposal of unwanted pets.
- 10-220. Supervisory veterinarian.
- 10-221. Violations.

**10-201. Definitions.** The following definitions shall apply in the interpretation and the enforcement of this chapter:

(1) "Dog" includes all members of the species *Canis Familiaris*, male or female.

(2) "Owner" includes any person, firm, or corporation owning, harboring, or keeping a dog; the occupant of any premises on which a dog remains or to which it customarily returns is presumed to be the owner of the dog within the meaning of this chapter.

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

(4) "At large" means to be off the premises of the owner and not under the control of the owner or a member of his immediate family over twelve (12) years of age, either by leash or otherwise; to be off the premises of the owner and in violation of §§ 10-202, 10-203, and 10-204 of this chapter or to be off the

premises of the owner and be a "nuisance" or "vicious dog," as are hereinafter defined.

(5) "Leash" means a cord, thong, or chain, not more than ten (10) feet in length, by which a dog is controlled by the person accompanying it.

(6) "Inoculation" means the subcutaneous injection at one (1) time but in several sites if necessary of a standard vaccine for dogs, which vaccine meets the standards prescribed by the United States Department of Agriculture and/or the United States Health Service for interstate sale.

(7) "Stray dogs" means any dog that has no apparent owner or one that has migrated from the outside of the city limits and has remained at large for more than twenty-four (24) hours.

(8) "In season" or "in heat" mean that periodic manifestation of the natural reproductive function during which an unspayed female dog becomes extraordinarily attractive to males.

(9) "Vicious dog" means one which has maliciously and without provocation attacked and bitten or attempted to attack and bite a human being.

(10) "Nuisance." A dog shall be considered a nuisance within the meaning of this chapter if it barks, howls, bits, attempts to bite, chases pedestrians and/or moving vehicles, rummages through receptacles for trash and garbage or otherwise creates disturbances of the peace, safety, and quiet of any person. (Ord. #186, \_\_\_\_\_)

**10-202. Rabies vaccination and registration required.** It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the Tennessee Anti-Rabies law. (Ord. #186, \_\_\_\_\_)

**10-203. Dogs to wear tags.** It shall be unlawful for any person to own, keep or harbor any dog which does not wear a tag evidencing the vaccination required in the preceding section. (Ord. #186, \_\_\_\_\_)

**10-204. Vicious dogs to be securely restrained.** (1) 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 the same to the rabies control officer and shall be immediately impounded, isolated, and confined under the supervision and observation of a licensed veterinarian and the rabies control officer in the city animal shelter for such time as the veterinarian and rabies control officer deem it necessary to protect the safety of the people and/or property. In addition to the impoundment fee and the boarding fees provided for in § 10-206 of this chapter, the owner of said impounded dog shall pay a fee of \$10.00, 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 confinement.

(2) If the owner of any dog confined under subsection (1) of this section shall contest the validity or basis of said confinement, he shall file a petition contesting same before the city judge 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 was not validly confined under the provisions of subsection (1) of this section. The decision of the city judge 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 rabies control officer shall keep a record of each dog confined under subsection (1) of this section, which record shall include the name and address of the informant whose report caused the confinement and all pertinent information relating to the dog, its tag, and its owners, which report shall be furnished to the city judge upon his request. (Ord. #186, \_\_\_\_\_)

**10-205. Confinement of female dogs in season.** All female dogs within the city shall upon coming in season be kept in a securely closed building or under the complete control of the owner by the use of a leash for a minimum period of twenty-four (24) days, beginning the first day that evidence of attraction is noticeable. Any dog not so kept shall constitute a nuisance and a violation of this chapter, and the owner shall be subject to fine. (Ord. #186, \_\_\_\_\_)

**10-206. Running at large prohibited.** It shall be unlawful for any person to permit any dog owned by him or under his control to run at large within the city. (Ord. #186, \_\_\_\_\_)

**10-207. Impoundment and sale of dogs running at large.** (1) It shall be the duty of the city police, rabies control officer and/or other authorized persons to seize and impound any stray dog, dog which is found to be a nuisance, or any dog found at large and in violation of this chapter.

(2) If owner of said dog can be identified, the owner shall be notified by telephone call or post card of his dog's violation and given two (2) days to comply with the city code (§ 10-205). If the owner does not bring his dog within compliance with § 10-205 or if the animal is found to be in violation for a second time, said animal shall be impounded; said owner shall then be notified by registered mail at his last known address and assessed an impoundment fee of \$\_\_\_\_\_ plus a boarding fee of \$3.00 per day for the period of impoundment, or said dog will be disposed of by sale or, if not purchased, by humane destruction.

(3) If said dog is found to be in violation of the city code (§ 10-205) for a third time, said animal shall be impounded and the owner shall be issued a

citation to appear before the city judge within five (5) days or the next court date to hear the complaint lodged against him.

(4) If said dog is not wearing a tag, the dog so seized and impounded shall be confined for a period of not less than ten (10) days unless it is so injured or diseased as to require immediate humane disposal. After a minimum of ten (10) days a dog not wearing a tag and thus considered to be a stray may be disposed of by sale, or if not purchased, by gift under terms imposed by the rabies control officer, or by humane destruction; provided that at any time after seizure and impoundment, the owner of a dog so seized and impounded may redeem said dog by a payment of the charges and fees set out in subsection (2) of this section, said charges and fees to be subject to review and revision at the beginning of each fiscal year; and further provided that if said impounded dog is a vicious dog as defined herein or is in violation of this chapter, said dog shall not be released except under condition prescribed by the rabies control officer and supervising veterinarian; provided further that if said dog constitutes a danger to the community in the opinion of the city judge, the city judge shall order its humane destruction which shall not be accomplished until time for appeal of said decision has elapsed; and provided further, that no animal shall be sold or destroyed until the city has published a notice in a local newspaper, said notice to state the fact that the city has come into the possession of a certain described animal, and advising the owner that said animal may be sold or humanely disposed of if not claimed within ten (10) days from the date of the notice in the local newspaper.

(5) No dog shall be released in any event from the shelter unless and until it has been vaccinated and a tag placed upon its collar.

(6) Dogs not redeemed as provided in subsections (2), (4), and (5) of this section shall become the property of the city and may be sold. If two or more bona fide purchase offer are received for the same dog, the minimum price shall equal the total amount of the board bill and vaccination fee. (Ord. #186, \_\_\_\_\_)

**10-208. Protection for dogs.** All dogs within the city are hereby declared to be personal property and subjects of larceny, and it shall be unlawful for any person except an officer, rabies control officer, or authorized agent of the city, deliberately or any means, to kill, injure, or detain, or to attempt to kill, injure, or detain any dog which is duly tagged for the current year. (Ord. #186, \_\_\_\_\_)

**10-209. Barking or howling dogs.** No person shall own, keep, or harbor any dog which by loud or frequent barking, whining, howling, or other unusual noises annoys or disturbs the peace and quiet of any neighborhood, family, or person. (Ord. #186, \_\_\_\_\_)

**10-210. Emergency power.** The board of mayor and aldermen shall have the power to declare by resolution quarantine periods of definite and reasonable duration whenever such quarantine seems necessary or desirable for the control of epidemic dog disease. (Ord. #186, \_\_\_\_\_)

**10-211. Vicious dogs.** All vicious dogs or biting dogs as defined herein shall be kept securely tied by a strong collar and chain, fenced or housed securely. On the front entrance to the premises containing such a dog, a sign shall be exhibited bearing the words, "Bad Dog" or words of similar import which shall be in letters sufficiently large to be easily read and plainly visible at a sufficient distance to protect anyone from attack by said dog. Any owner failing to protect the public from such a dog shall be responsible for any damage done to person or property by said animal and shall be in violation of this chapter and subject to its provisions regardless of whether said animal has been of previous vicious tendencies. (Ord. #186, \_\_\_\_\_)

**10-212. Concealing dogs.** Any person who shall hide, conceal, or aid or assist in hiding or concealing any dog owned, kept, or harbored in violation of any provisions of this chapter shall be guilty of a misdemeanor and subject to fine. (Ord. #186, \_\_\_\_\_)

**10-213. Authority of rabies control officer.** The rabies control officer is hereby granted authority to issue citations for violations of this chapter and is hereby authorized to carry firearms to protect himself if necessary from a rabid or vicious dog as herein defined. (Ord. #186, \_\_\_\_\_)

**10-214. Rabies control officer under jurisdiction of police department.** The rabies control officer shall come under the jurisdiction and the authority of the police department. (Ord. #186, \_\_\_\_\_)

**10-215. Destruction of dogs previously found to be vicious.** If any dog which has previously been found to be vicious shall be at large and shall attack or bite a human being, upon report to the rabies control officer said dog shall be impounded and destroyed in a humane manner, upon notice to the owner of said dog as is prescribed in this chapter. (Ord. #186, \_\_\_\_\_)

**10-216. Bond.** The rabies control officer shall post with the city an indemnity bond in the amount of five thousand dollars (\$5,000.00). (Ord. #186, \_\_\_\_\_)

**10-217. City responsibility while confined.** The City of Smithville, Tennessee, and its officials shall not be responsible for any illness, disease, or death occurring to any dog confined in the city dog shelter. (Ord. #186, \_\_\_\_\_)

**10-218. Stealing dog tags.** Anyone who shall steal and/or otherwise acquire and use a dog tag upon a dog for which it was not issued shall be guilty of a violation of this chapter. (Ord. #186, \_\_\_\_\_)

**10-219. Disposal of unwanted pets.** Any person wishing to dispose of any dog owned by him shall inform the rabies control officer, who will dispose of said dog in a humane manner at a cost of \$5.00 to the owner. (Ord. #186, \_\_\_\_\_)

**10-220. Supervisory veterinarian.** The rabies control officer will work under the supervision and instruction of a licensed veterinarian. Said veterinarian shall reside within the corporate limits of the City of Smithville if such person is available; shall practice full-time in the City of Smithville; shall be available for consultation on a 24 hour basis; shall conduct training sessions for rabies control personnel; and shall be appointed for a term of one (1) year by the board of mayor and aldermen. (Ord. #186, \_\_\_\_\_)

**10-221. Violations.** Anyone found to be in violation of any of the provisions of this chapter shall be guilty of a civil offense, and shall be punished pursuant to the general penalty provision of this municipal code. (Ord. #186, \_\_\_\_\_, modified)

## TITLE 11

### MUNICIPAL OFFENSES<sup>1</sup>

#### CHAPTER

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

#### CHAPTER 1

### ALCOHOL<sup>2</sup>

#### SECTION

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

**11-101. Drinking beer, etc., on streets, etc.** It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place unless the place has an appropriate permit and/or license for on premises consumption of such beverage. (1976 Code, § 10-229)

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<sup>1</sup>Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

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

**11-102. Minors in beer places.** No person under the age of twenty-one (21) shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1976 Code, § 10-222, modified)

**CHAPTER 2****FORTUNE TELLING, ETC.****SECTION**

11-201. Fortune telling, etc.

**11-201. Fortune telling, etc.** It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1976 Code, § 10-234, modified)

**CHAPTER 3**

**OFFENSES AGAINST THE PERSON**

**SECTION**

11-301. Assault and battery.

**11-301. Assault and battery.** It shall be unlawful for any person to commit an assault or an assault and battery upon another person. (1976 Code, § 10-201)

## CHAPTER 4

### OFFENSES AGAINST THE PEACE AND QUIET

#### SECTION

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

**11-401. 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. (1976 Code, § 10-202)

**11-402. 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 other signal device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

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

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

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

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

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

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

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

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

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose

of attracting attention to any performance, show, or sale or display of merchandise.

(1) 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 of Smithville, DeKalb County or the State of Tennessee, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the city's secretary and treasurer. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1976 Code, § 10-233)

## CHAPTER 5

### INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

#### SECTION

11-501. Escape from custody or confinement.

11-502. Impersonating a government officer or employee.

11-503. False emergency alarms.

11-504. Resisting or interfering with an officer.

11-505. Coercing people not to work.

**11-501. Escape from custody or confinement.** It shall be unlawful for any person under arrest or otherwise in custody of or confined by the municipality 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. (1976 Code, § 10-209)

**11-502. Impersonating a government officer or employee.** No person other than an official police officer of the municipality 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 municipality. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1976 Code, § 10-211)

**11-503. False emergency alarms.** It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1976 Code, § 10-217)

**11-504. Resisting or interfering with an officer.** It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the municipality while such officer or employee is performing or attempting to perform his municipal duties. (1976 Code, § 10-210)

**11-505. 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. (1976 Code, § 10-230)

## CHAPTER 6

### FIREARMS, WEAPONS AND MISSILES

#### SECTION

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Weapons and firearms generally.

**11-601. Air rifles, etc.** It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1976 Code, § 10-213)

**11-602. Throwing missiles.** It shall be unlawful for any person to throw any stone, snowball, bottle, or any other missile maliciously upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1976 Code, § 10-214)

**11-603. 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 except the army or navy pistol which shall be carried openly in the hand. 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, not to any conductor of any passenger or freight train of any steam railroad while he is on duty. It shall also be unlawful for any unauthorized person to discharge a firearm within the municipality. (1976 Code, § 10-212, modified)

**CHAPTER 7****TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE  
WITH TRAFFIC****SECTION**

- 11-701. Trespassing.
- 11-702. Trespassing on trains.
- 11-703. Malicious mischief.
- 11-704. Interference with traffic.

**11-701. Trespassing.** The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1976 Code, § 10-226)

**11-702. Trespassing on trains.** It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1976 Code, § 10-221)

**11-703. Malicious mischief.** It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1976 Code, § 10-225)

**11-704. Interference with traffic.** It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1976 Code, § 10-232)

## CHAPTER 8

### MISCELLANEOUS

#### SECTION

- 11-801. Abandoned refrigerators, etc.
- 11-802. Caves, wells, cisterns, etc.
- 11-803. Posting notices, etc.
- 11-804. Curfew for minors.
- 11-805. Wearing masks.
- 11-806. Miniature games, pinball machines, etc.

**11-801. 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. (1976 Code, § 10-223)

**11-802. 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. (1976 Code, § 10-231)

**11-803. 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. (1976 Code, § 10-227)

**11-804. Curfew for minors.** It shall be unlawful for any person under the age of eighteen (18) years to be abroad at night between 11:00 P.M. and 6:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. It shall also be unlawful for any parent or guardian knowingly to permit his child to violate this section. (1976 Code, § 10-224)

**11-805. Wearing masks.** It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.
- (2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.

(3) Persons wearing gas masks in civil defense drills and exercises or emergencies.

(4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1976 Code, § 10-235)

**11-806. Miniature games, pinball machines, etc.** No owner, operator, manager or person in charge of any fair, amusement park, theme park, restaurant, cafe, filling station, beer tavern, hotel, motel, drug store, or any other store, establishment, place of business or otherwise, shall allow any person, between the hours of 12 midnight on any day of the week and 6:00 A.M. on the following day and all day on Sunday to play or operate any game of pool, miniature football, golf, baseball, pinball machine, video games, other miniature games, or any like or given device, whether operated mechanically or by coin, or any other manner, whether the charge for playing same is made or collected or not.

This prohibition shall include the manager and it shall be obligatory upon the manager or person in charge to not allow such operation or operations as above described, and it shall be incumbent upon such manager or person in charge to prevent and prohibit any such activity as above described.

The owner, operator, manager, or person in charge of any and all places of business above described who shall violate, or allow to be violated, any of the provisions described above in this section shall be guilty of a misdemeanor and a violation of this section and each separate act is hereby declared to be a separate and distinct violation and offense.

It shall be unlawful for any person to play or operate any of the aforementioned games between the hours of 12 midnight and 6:00 A.M. on any day of the week and all day on Sunday.

Any violation as heretofore described shall subject the player, owner, operator, manager, or person in charge of such place to a fine of not more than fifty dollars (\$50.00) by and through the city court and the city judge of the City of Smithville, Tennessee.

The provisions of this section shall apply only to those fairs, amusement parks, theme parks, restaurants, cafes, filling stations, beer taverns, hotels, motels, drug stores, or any other stores, establishments, places of business or otherwise, which derive the majority of their income from the activities listed in paragraph one above.

This section shall apply to all places and persons as herein described within the entire geographical boundary of the City of Smithville, Tennessee. (Ord. #165, Nov. 1982)

**TITLE 12**

**BUILDING, UTILITY, ETC. CODES**

**CHAPTER**

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. HOUSING CODE.
6. MODEL ENERGY CODE.
7. RESIDENTIAL CODE.

**CHAPTER 1**

**BUILDING CODE<sup>1</sup>**

**SECTION**

- 12-101. International Building Code adopted.
- 12-102. Modifications.
- 12-103. Repeal of previous ordinances.
- 12-104. Official responsible for enforcement.
- 12-105. [Deleted.]
- 12-106. [Deleted.]

**12-101. International Building Code adopted.** The International Building Code, 2000 edition, with amendments, is hereby adopted by reference as though it was copied fully herein. (1976 Code, § 4-101, as amended by Ord. #112, Nov. 1976, and Ord. #121, Sept. 1977, modified, and replaced by Ord. #324, May 2002)

**12-102. Modifications.** Chapter 1 Section 105.2 - work exempt without permit: Paragraph 1 and 2 relating to accessory structures and fences are changed to require permit.

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

Ord. #121, Sept. 1977 established a Building, Housing and Plumbing Department of the City of Smithville, Tennessee. It also designated J.D. Hendrixson as head of this department and to serve as the building, housing and plumbing officials.

Ord. #336, Feb. 2003 provides the current schedule of building permit fees and is of record in the office of the city recorder.

The following appendixes are hereby adopted as noted:

A. Employee qualification  
 B. Board of Appeals  
     B101.2.2 Qualifications - change to delete all "registered design" requirements for professionals.

C. Agricultural Buildings  
 D. Fire District  
 E. Supplementary Accessibility Requirements  
 F. Rodent Proofing  
 G. Flood Resistant Construction  
 H. Signs  
 I. Patio Covers  
 J. Historic Buildings

(1976 Code, § 4-102, as amended by Ord. #112, Nov. 1976, and Ord. #122, Oct. 1977, and replaced by Ord. #324, May 2002)

**12-103. Repeal of previous ordinances.** Any matters in said codes which are contrary to existing ordinances of the City of Smithville shall prevail and that portions of Ord. #121 establishing a building, housing and plumbing code adopted on September 19, 1977 specifically relating to the Building and Plumbing Codes, 1976 editions, and portions of Ord. #122 amending Ord. #121 adopted October 17, 1977, specifically relating to the Building and Plumbing codes, 1976 edition, are hereby repealed and, to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #122, Oct. 1977, as replaced by Ord. #324, May 2002)

**12-104. Official responsible for enforcement.** Within the International Building Code, when reference is made to the duties of a certain official named therein, that designated official of the City of Smithville, Dekalb County, Tennessee 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. (1976 Code, § 4-103, as amended by Ord. #121, Sept. 1977, modified, and replaced by Ord. #324, May 2002)

**12-105. [Deleted.]** This section was deleted by Ord. #324, May 2002. (Ord. #121, Sept. 1977, as amended by Ord. #122, Oct. 1977, and deleted by Ord. #324, May 2002)

**12-106. [Deleted.]** This section was deleted by Ord. #324, May 2002. (Ord. #121, Sept. 1977, modified, as deleted by Ord. #324, May 2002)

## CHAPTER 2

### PLUMBING CODE<sup>1</sup>

#### SECTION

- 12-201. International Plumbing Code adopted.
- 12-202. Modifications.
- 12-203. Repeal of previous ordinances.
- 12-204. Official responsible for enforcement.
- 12-205. [Deleted.]
- 12-206. [Deleted.]

**12-201. International Plumbing Code adopted.** The International Plumbing Code, 2000 edition, with amendments, is hereby adopted by reference as though it was copied fully herein. (1976 Code, § 4-201, as amended by Ord. #112, Nov. 1976, and Ord. #121, Sept. 1977, modified, and replaced by Ord. #324, May 2002)

**12-202. Modifications.** The following sections are hereby revised:

- Section 1.01           insert City of Smithville, Tennessee
- Section 106.6.2       delete
- Section 106.6.3       delete
- Section 108.5          delete
- Section 305.6.1       delete requirement for septic tank connection, all building sewers to be a minimum of 12 inches below grade.
- Section 904.1          insert 12 inches

The following appendixes are hereby adopted:

- B. Rates of Rainfall
- C. Greywater recycling systems
- D. Design temperature
- E. Sizing of water piping system
- F. Structural Safety
- G. Vacuum Drainage System

(1976 Code, § 4-202, as amended by Ord. #112, Nov. 1976, and replaced by Ord. #324, May 2002)

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<sup>1</sup>Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

**12-203. Repeal of previous ordinances.** Any matters in said codes which are contrary to existing ordinances of the City of Smithville shall prevail and that portions of Ord. #121 establishing a building, housing and plumbing code adopted on September 19, 1977 specifically relating to the Building and Plumbing Codes, 1976 editions, and portions of Ord. #122 amending Ord. #121 adopted October 17, 1977, specifically relating to the Building and Plumbing codes, 1976 edition, are hereby repealed and, to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #122, Oct. 1977, as replaced by Ord. #324, May 2002)

**12-204. Official responsible for enforcement.** Within the International Plumbing Code, when reference is made to the duties of a certain official named therein, that designated official of the City of Smithville, DeKalb County, Tennessee 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.(1976 Code, § 4-203, as amended by Ord. #121, Sept. 1977, modified, and replaced by Ord. #324, May 2002)

**12-205. [Deleted.]** This section was deleted by Ord. #324, May 2002. (Ord. #121, Sept. 1977, as amended by Ord. #122, Oct. 1977, and deleted by Ord. #324, May 2002)

**12-206. [Deleted.]** This section was deleted by Ord. #324, May 2002. (Ord. #121, Sept. 1977, modified, as deleted by Ord. #324, May 2002)

## CHAPTER 3

### ELECTRICAL CODE<sup>1</sup>

#### SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in secretary and treasurer's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Violations.
- 12-305. Enforcement.
- 12-306. Fees.

**12-301. Electrical code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 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,<sup>2</sup> 1993 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. (1976 Code, § 4-301, modified)

**12-302. Available in secretary and treasurer's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the secretary and treasurer's office and shall be kept there for the use and inspection of the public. (1976 Code, § 4-302, modified)

**12-303. Permit required for doing electrical work.** No electrical work shall be done within this city until a permit therefor has been issued by the electrical inspector. 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. (1976 Code, § 4-303)

**12-304. 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

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<sup>1</sup>Municipal code reference

Fire protection, fireworks and explosives: title 7.

<sup>2</sup>Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1976 Code, § 4-304)

**12-305. Enforcement.** The electrical inspector shall be such person as the board of mayor and aldermen shall appoint or designate. 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 to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1976 Code, § 4-305)

**12-306. Fees.** The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, § 68-102-143 for electrical inspections by deputy inspectors of the state fire marshal. (1976 Code, § 4-306)

## CHAPTER 4

### GAS CODE<sup>1</sup>

#### SECTION

- 12-401. Title and definitions.
- 12-402. Purpose and scope.
- 12-403. Use of existing piping and appliances.
- 12-404. Bond and license.
- 12-405. Gas inspector and assistants.
- 12-406. Powers and duties of inspector.
- 12-407. Permits.
- 12-408. Inspections.
- 12-409. Certificates.
- 12-410. Fees.
- 12-411. Violations and penalties.
- 12-412. Nonliability.

**12-401. Title and definitions.** This chapter and the code herein adopted by reference shall be known as the gas code of the city and may be cited as such.

The following definitions are provided for the purpose of interpretation and administration of the gas code.

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

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

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

(4) "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.

(5) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers. (1976 Code, § 4-401)

**12-402. Purpose and scope.** The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of

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<sup>1</sup>Municipal code reference

Gas system administration: title 19, chapter 1.

consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the Standard Gas Code,<sup>1</sup> 1994 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 secretary and treasurer for the use and inspection of the public. (1976 Code, § 4-402, modified)

**12-403. Use of existing piping and appliances.** Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (1976 Code, § 4-403)

**12-404. Bond and license.** (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the secretary and treasurer of the city a good and sufficient bond in the penal sum of \$10,000, with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the secretary and treasurer, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

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

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

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

conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (1976 Code, § 4-404)

**12-405. Gas inspector and assistants.** To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the board of mayor and aldermen. (1976 Code, § 4-405)

**12-406. Powers and duties of inspector.** (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

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

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (1976 Code, § 4-406)

**12-407. Permits.** (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the gas inspector; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

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

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

extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system. (1976 Code, § 4-407)

**12-408. 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, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six (6) inches in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (1976 Code, § 4-408)

**12-409. 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 the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (1976 Code, § 4-409)

**12-410. Fees.** (1) The total fees for inspection of consumer's gas piping at one location (including both rough and final piping inspection) shall be \$1.50 for one to four outlets, inclusive, and \$0.50 for each outlet above four.

(2) The fees for inspecting conversion burners, floor furnaces, boilers, or central heating plants shall be \$1.50 for each unit.

(3) The fees for inspecting vented wall furnaces and water heaters shall be \$1.00 for each unit.

(4) If the inspector is called back, after correction of defects noted, and additional fee of \$1.00 shall be made for each such return inspection.

(5) Any and all fees shall be paid by the person to whom the permit is issued. (1976 Code, § 4-410)

**12-411. Violations and penalties.** Section 107 of the gas code is hereby deleted. Any person who shall violate or fail to comply with any of the provisions of the gas code 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. (1976 Code, § 4-411)

**12-412. Nonliability.** This chapter shall not be construed as imposing upon the city 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, 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. (1976 Code, § 4-412)

## CHAPTER 5

### HOUSING CODE

#### SECTION

- 12-501. Housing code adopted.
- 12-502. Modifications.
- 12-503. Available in clerk and secretary's office.
- 12-504. Board of adjustment and appeals.
- 12-505. Violations.

**12-501. Housing code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, 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,<sup>1</sup> 1991 edition with 1992/1994 revisions, 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. (1976 Code, § 4-501, as amended by Ord. #112, Nov. 1976, and Ord. #121, Sept. 1977, modified)

**12-502. Modifications.** Wherever the housing code refers to the duties of certain officials named therein that designated official in the City of Smithville, 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.

Section 108 of the housing code is deleted. (1976 Code, § 4-502, as amended by Ord. #112, Nov. 1976)

**12-503. Available in clerk and secretary's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the housing code has been placed on file in the clerk and secretary's office and shall be kept there for the use and inspection of the public. (1976 Code, § 4-503, as amended by Ord. #121, Sept. 1977, modified)

**12-504. Board of adjustment and appeals.** The board of adjustment and appeals, as provided for in said codes, is hereby established consisting of the

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

number and terms of office as provided in said codes and they will be hereafter appointed and their terms of office fixed by subsequent ordinances of the board.

The mayor be, and he is hereby, authorized and empowered to appoint the five (5) members of the board of adjustments and appeals to serve for the terms and as provided in Section 105 of the Standard Building Code, 1994 Edition, by letter to be attached to this amendment, and said board shall perform the duties therein provided and shall also act as a board of adjustments and appeals for like purposes in relation to the Standard Plumbing Code. (Ord. #121, Sept. 1977, as amended by Ord. #122, Oct. 1977)

**12-505. Violations.** Any person, firm, corporation or agent who shall violate a provision of the aforesaid Standard Housing Code, as amended, or failed to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any structure, or has erected, constructed, altered, repaired, moved or demolished a building or structure in violation of this code shall be guilty of a civil offense. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of said code is committed, or continued and upon conviction of any such violation such person shall be punished under the general penalty provision of this municipal code. (Ord. #121, Sept. 1977, modified)

## CHAPTER 6

### MODEL ENERGY CODE<sup>1</sup>

#### SECTION

- 12-601. Model energy code adopted.
- 12-602. Modifications.
- 12-603. Available in secretary and treasurer's office.
- 12-604. Violations and penalty.

**12-601. Model energy code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the Model Energy Code<sup>2</sup> 1992 edition, as prepared and maintained by The Council of American Building Officials, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code.

**12-602. Modifications.** Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the City of Smithville. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

**12-603. Available in secretary and treasurer's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of

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<sup>1</sup>State law reference

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

Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

the energy code has been placed on file in the secretary and treasurer's office and shall be kept there for the use and inspection of the public.

**12-604. Violation and penalty.** It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 7

### RESIDENTIAL CODE

#### SECTION

12-701. International Residential Code adopted.

12-702. Modifications.

**12-701. International Residential Code adopted.** Certain documents, one (1) copy of which is on file in the office of the Building Officials office of the City of Smithville, being marked and designated as International Residential Code, including Appendix A, B, C, D, E, F, G, H, J and K, as published by the International Code Council and is hereby adopted as the code of the City of Smithville for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses not more than three stories in height in the City of Smithville, and providing the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Residential Code, 2000 edition, published by the International Code Council on file in the office of the City of Smithville, DeKalb County Tennessee are hereby referred to, adopted and made a part hereof as if fully set out in this chapter. (as added by Ord. #335, Feb. 2003)

**12-702. Modifications.** The following sections are hereby revised:

Section R101.1 Insert: City of Smithville, DeKalb County Tennessee

Table R301.2(1) Insert: Criteria specified by the City of Smithville, DeKalb County Tennessee Building Official

Chapter 1 Section 105.2--work exempt without permit; paragraph 1 and 2 are Changed to require permit. (as added by Ord. #335, Feb. 2003)

**TITLE 13**

**PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>**

**CHAPTER**

1. MISCELLANEOUS.
2. JUNKYARDS.
3. SLUM CLEARANCE.
4. MINIMUM PROPERTY MAINTENANCE REQUIREMENTS.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. House trailers.
- 13-108. Food service sanitation ordinance adopted by reference.

**13-101. Health officer.** The "health officer" shall be such city, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1976 Code, § 8-101)

**13-102. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1976 Code, § 8-105)

**13-103. Stagnant water.** It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (1976 Code, § 8-106)

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<sup>1</sup>Municipal code references  
Animal control: title 10.  
Littering streets, etc.: § 16-107.

**13-104. Weeds.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city's secretary and treasurer or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1976 Code, § 8-107)

**13-105. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1976 Code, § 8-108)

**13-106. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1976 Code, § 8-109)

**13-107. House trailers.** It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit therefor shall have been first duly issued by the city as provided for in the building code. (1976 Code, § 8-104)

**13-108. Food service sanitation ordinance adopted by reference.**

(1) The definitions; the inspection of food-service establishments; the issuance, suspension, and revocation of permits to operate food-service establishments; the prohibiting of the sale of adulterated or misbranded food or drink; and the enforcement of food service sanitation regulations shall be regulated in accordance with the unabridged form of the 1962 edition of the United States Public Health Service Food Service Sanitation Ordinance and Code,<sup>1</sup> three copies of which are on file in the office of the city's secretary and treasurer provided, that the words "municipality of \_\_\_\_\_" in said unabridged form shall be understood to refer to the City of Smithville, Tennessee; provided further, that in said ordinance all parenthetical phrases referring to grading and subsection H. 2. e. shall be understood to be deleted;

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<sup>1</sup>This ordinance and the code are contained in Public Health Service Publication No. 934 which is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Price 55 cents.

and provided further, that subsections H. 7. and H. 8. shall be replaced respectively by subsections (2) and (3) below.

(2) Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than fifty dollars (\$50.00). In addition, thereto, such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs constitutes a separate violation.

(3) This ordinance shall be in full force and effect from and after its adoption as provided by law and all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed. (1976 Code, § 8-113)

**CHAPTER 2****JUNKYARDS****SECTION**

## 13-201. Junkyards.

**13-201. Junkyards.**<sup>1</sup> All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1976 Code, § 8-111)

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<sup>1</sup>State law reference

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

## CHAPTER 3

### SLUM CLEARANCE

#### SECTION

- 13-301. Existence of unsafe structures and dwellings.
- 13-302. Appointment of public officer.
- 13-303. Powers to public officer.
- 13-304. Procedures.
- 13-305. Complaints or orders; service and filing.
- 13-306. Issuance of order to repair, alter, improve, or demolish structures unfit for human occupation or use.
- 13-307. Owner's non-compliance with order of public officer.
- 13-308. Demolition or removal of structure by public officer.
- 13-309. Costs of repair or demolition assessed against owner.
- 13-310. Ordinance confers supplementary powers.

**13-301. Existence of unsafe structures and dwellings.** After due consideration, the Mayor and Board of Aldermen of the City of Smithville conclude that there exists in this municipality structures which are unfit for human occupation or use 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 structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of such municipality. Therefore, the City of Smithville hereby acknowledges and accepts the power conferred upon it by the General Assembly in Tennessee Code Annotated, § 13-21-101 et seq., to enact provisions and to exercise its police powers to repair, close or demolish the aforementioned structures in the manner herein provided. (Ord. #289, Aug. 1999)

**13-302. Appointment of public officer.** The mayor and board of aldermen shall appoint a public officer to exercise all the powers prescribed and conferred upon that public officer herein. (Ord. #289, Aug. 1999)

**13-303. Powers of public officer.** (1) The Mayor and Board of Aldermen of the City of Smithville authorize the public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers in addition to others herein granted, to:

- (a) Investigate conditions in this municipality in order to determine which structures therein are unfit for human occupation or use;

(b) Administer oaths, affirmations, examine witnesses and receive evidence;

(c) Enter upon premises for the purpose of making examinations; provided, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(d) Appoint and fix the duties of such officers, agents and employees as the public officer deems necessary to carry out the purposes of this chapter; and

(e) Delegate any of such public officer's functions and powers under this chapter to such officers and agents as the public officer may designate.

(2) The public officer may determine that a structure is unfit for human occupation or use if the public officer finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structure, the occupants of neighboring structures or other residents of such municipality. Such conditions 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 uncleanliness. (Ord. #289, Aug. 1999)

**13-304. Procedures.** The Mayor and Board of Aldermen of the City of Smithville hereby implement the procedures set forth in this section.

(1) Filing of petition; issuance of complaint; notice of hearing. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the City of Smithville charging that any structure is unfit for human occupation or use, or whenever it appears to the public officer (on the public officer's own motion) that any structure is unfit for human occupation or use, or whenever it appears to the public officer (on the public officer's own motion) that any structure is unfit for occupation or use, the public officer shall, if the public officer's 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's designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint.

(2) Right to file answer and to testify at hearing. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint.

(3) Rules of evidence no controlling. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (Ord. #289, Aug. 1999)

**13-305. Complaints or orders; service and filing.** Complaints or orders issued by a 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 published in this municipality. A copy of such complaint or order shall also be filed for record in the register's office of the county in which the structure is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (Ord. #289, Aug. 1999)

**13-306. Issuance of order to repair, alter, improve, or demolish structure unfit for human occupation or use.** If, after such notice and hearing, the public officer determines that the structure under consideration is unfit for human occupation or use, the public officer shall state in writing the public officer's findings 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, 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 as a place of human occupation or use; or

(2) If the repair, alteration or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure, requiring the owner, within the time specified in the order, to remove or demolish such structure. (Ord. #289, Aug. 1999)

**13-307. Owner's non-compliance with order of public officer.** If the owner fails to comply with an order to repair, alter or improve or to vacate and close the structure, the public officer may cause such structure to be repaired, altered or improved, or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any structure 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." (Ord. #289, Aug. 1999)

**13-308. Demolition or removal of structure by public officer.** If the owner fails to comply with an order to remove or demolish the structure, the public officer may cause such structure to be removed or demolished. (Ord. #289, Aug. 1999)

**13-309. Costs of repair or demolition assessed against owner.** The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall, upon the filing of the notice with the office of the register of deeds of the county in which the property lies, 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 City Clerk for the City of Smithville 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 City of Smithville may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. This municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court 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 municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #289, Aug. 1999)

**13-310. Ordinance confers supplementary powers.** Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the City of Smithville to enforce any of the provisions of its charter or its 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 any other law. (Ord. #289, Aug. 1999)

## CHAPTER 4

### MINIMUM PROPERTY MAINTENANCE REQUIREMENTS

#### SECTION

13-401. Definitions.

13-402. Duty to maintain property.

13-403. Enforcement.

**13-401. Definitions.** As used in the interpretation and application of this chapter, the following words shall have the meanings indicated:

(1) "Junk" means discarded, broken or disabled material including, but not limited to, furniture, appliances, tools, machinery, or other items that are not in functioning condition.

(2) "Litter" means discarded waste materials, including, but not limited to, paper wrappings, packaging materials, discarded or used bottles and cans, scrap lumber, and other building materials, broken or discarded furniture, household furnishings, and equipment.

(3) "Owner" means any person owning property in Smithville, Tennessee, as shown on the real property records of DeKalb County or on the current assessment role for taxes, and shall also mean any lessee, tenant, or other person having control or possession of the property.

(4) "Property" means land and any buildings or structures located thereon.

(5) "Trash" means waste food products and other household garbage. (as added by Ord. #366, Aug. 2004)

**13-402. Duty to maintain property.** No person owning, leasing, renting, occupying, being in possession or having charge of any property in the city, including vacant lots, shall maintain or allow to be maintained on such property, except as may be permitted by any other city ordinance, any of the following conditions visible from any public street or alley:

(1) Junk, litter and trash;

(2) Outdoor nuisances dangerous to children, including but not limited to abandoned, broken or neglected equipment, machinery, or any appliance with a latching door;

(3) Shopping carts in any front yard, side yard, rear yard or vacant lot of any property;

(4) Dead, decayed, diseased or hazardous trees, or any other vegetation a majority of which (excluding vegetation located in flowerbeds, or trees, or shrubbery or existing hayfields) exceeds twelve (12) inches in height, or which is dangerous to public health, safety and welfare, located in any front yard, side yard, rear yard, or upon any vacant lot;

(5) Graffiti or signs, not in compliance with the city zoning ordinance, on the exterior of any building, fence or other structure in any front yard, side yard or rear yard or vacant lot;

(6) Vehicle parts or other articles of personal property which are discarded or left in a state of partial construction or repair in any front yard, side yard, rear yard or vacant lot;

(7) Utility trailers or unmounted campertops located in any front yard except in the driveway;

(8) Any accumulation of weeds, brambles, berry vines, or other vegetation which is overgrowing any structure or which exceeds an average height of three (3) feet, other than maintained landscaping, or any accumulation of junk, litter, trash, dead organic matter, debris, offal, rat harborages, stagnant water, combustible materials or vegetation, and similar materials or conditions constituting fire, health or safety hazard. (as added by Ord. #366, Aug. 2004)

**13-403. Enforcement.** (1) Notice to property owner. It shall be the duty of the Building Inspector of the City of Smithville, Tennessee, to serve notice upon the property owner of record in violation of § 13-402 above. The property owner shall be notified in writing specifying the nature of the violation, specifying the corrective measures to be taken, and require compliance within not more than 30 days. The notice may be served upon the owner(s) of the premises where the violation is located by:

- (a) Posting notice in plain view on the property in violation, or
- (b) Sending notice by mail.

The date the notice is posted or received by the offender shall serve as the beginning of the specified time period allowing for corrective action.

(2) Failure to take corrective action. Failure by the property owner to take corrective action to bring the property within compliance of § 13-402 above shall constitute a violation of this chapter and be a civil offense. The building inspector and/or any designated person charged with the enforcement of this chapter may then take the following actions:

(a) Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this chapter on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints directly related to land use and public health on private property. If after such investigation, the building official finds violations of this chapter on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges. If the offender refuses to sign the agreement to appear, the building inspector may

- (i) Request the city judge to issue a summons, or

(ii) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101 et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest, or

(b) If the owner or owners of the premises fails or refuses to comply with the order issued by the building inspector within the time period specified by the letter of notification, as provided herein, such failure or refusal shall be deemed a violation of the provisions of this chapter and said owner or owners shall be subject to the penalties herein provided. The building inspector that is charged with enforcing this code, or the inspector's duly authorized representatives may enter onto such premises and take corrective action specified by the letter of notification so that the nuisance identified by said letter is removed or abated. Upon completion of the corrective action carried out by the City of Smithville as authorized herein, the actual costs of such action, plus a fee of fifteen percent (15%) for administrative costs, shall be due from the owner or owners of said property to the City of Smithville and said costs shall be billed to the owner or owners of said property. If said bill is not paid in full within sixty (60) days after the date of mailing, a ten percent (10%) penalty shall be added and said costs and penalties shall be placed on the tax rolls of the City of Smithville as a lien upon said property and collected in the same manner as other city taxes are collected.

(3) Penalty for violation. Any person violating this chapter shall be subject to a civil penalty of \$50.00 for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation.

(4) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the city charter, the municipal code of ordinances, or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of vines, grass, weeds, underbrush, and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provision of the municipal code of ordinances or any other applicable law. (as added by Ord. #366, Aug. 2004)

**TITLE 14****ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.

**CHAPTER 1****MUNICIPAL PLANNING COMMISSION****SECTION**

14-101. Creation and membership.

14-102. Functions and duties.

14-103. Additional duties.

**14-101. Creation and membership.** The planning commission shall consist of nine (9) members, one of whom shall be the Mayor of the City of Smithville, and one of whom shall be an alderman of said city. The said alderman who is appointed as a member of said planning commission shall be appointed by a majority vote of the board of aldermen of said city for a period of two years from the date of appointment or until the expiration of his term of office as alderman, whichever should first occur. The successor to said alderman planning commissioner shall be selected in the same manner as the original selected alderman planning commissioner.

The remaining seven (7) members of said planning commission shall consist of residents of the City of Smithville, Tennessee, who must be at least 18 years of age at the date of appointment all of whom shall be appointed by the Mayor of the City of Smithville, Tennessee. Said original appointments shall be made by said mayor at the first regular meeting in August 1975, and are to be effective immediately. Said appointments will be entered on the official minutes of the City of Smithville, and it is not necessary that a quorum of the legislative body of the said city be present in order for the mayor to make said appointments. The said seven (7) original appointee members of said planning commission shall serve three (3), four (4), five (5), six (6), and seven (7) years respectively from and after June 7, 1977. Each succeeding member to a retiring member shall be appointed by the mayor in the same manner as the original appointees, for a period of seven (7) years. Any vacancy in the appointive membership shall be filled by the Mayor of the City of Smithville who shall have authority to remove any appointive member at his pleasure.

All members of the said planning commission shall serve as such without compensation. (Ord. #115, May 1977, modified)

**14-102. Functions and duties.** (1) It shall be the function and duty of the commission to make and adopt an official general plan for the physical development of the City of Smithville, including any area outside of its boundaries which, in the commission's judgement, bear relation to the planning of the municipality. The plan, with the accompanying maps, plats, charts, and descriptive and explanatory matter, shall show the commission's recommendations for the said physical development and may include, among other things, the general location, character and extent of streets, bridges, viaducts, parks, parkways, waterways, waterfronts, playgrounds, airports, and other public ways, grounds, places, and spaces, the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, light, power, sanitation, transportation, communication and other purposes; also the removal, relocation, widening, extension, narrowing, vacating, abandonment, change of use or extension of any of the foregoing public ways, grounds, places, spaces, buildings, properties of utilities; also the general location, character, layout and character, extent and layout of the replanning of blighted districts and slum areas. The commission may from time to time amend, extend or add to the plan or carry and part of subject matter into greater detail.

(2) The commission may adopt the plan as a whole by a single resolution, or, as the work of making the whole plan progresses, may from time to time adopt a part or parts thereof, any such part to correspond generally with one or more of the functional subdivisions of the subject matter of the plan, the adoption of the plan or any part, amendment or addition shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the commission. The resolution shall refer expressly to the maps, descriptive matter and other matters intended by the commission to form the whole or part of the plan, and the action taken shall be recorded on the adopted plan or part thereof and descriptive matter by the identifying signature of the secretary of the commission, and a copy of the plan or part thereof shall be certified to the Board of Aldermen of the City of Smithville.

(3) In the preparation of the plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and future growth of the municipality of Smithville and its environs. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development.

(4) The commission may make reports and recommendations relating to the plan and development of the municipality of Smithville to public officials and agencies, public utility companies, to civic, educational, professional and other organizations and to citizens. It may recommend to the Mayor or Board of Aldermen of the City of Smithville programs for public improvements and the

financing thereof. All public officials shall request, furnish to the commission, within a reasonable time, such available information as it may require for its work. The commission, its members and employees, in the performances of its work, may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon. In general, the commission shall have powers as may be necessary to enable it to perform its purposes and promote municipal planning.

(5) Whenever the commission shall have adopted the plan of the municipality or any part thereof, then and thenceforth no street, park, or other public way, ground, place, or space, no public building or structure, or no public utility whether publicly or privately owned, shall be constructed or authorized in the municipality until and unless the location and extent thereof shall have been submitted to and approved by the planning commission; provided that in case of disapproval, the commission shall communicate its reasons to the Board of Aldermen of the municipality of Smithville and such board of aldermen by a vote of a majority of its membership, shall have the power of overruling, such board of aldermen shall have the power to proceed; provided however, that if the public way, ground, place, space, building, structure or utility be one the authorization or financing of which does not, under the law governing the same, fall within the province of such board of aldermen, then the submission to the planning commission's disapproval may be overruled by such board by a majority vote of its membership. The widening, narrowing, relocation, vacation, change in the use, acceptance, acquisition, sale or lease of any street, or public way, ground, place, or property or structure shall be subject to similar submission and approval, unless a longer period be granted by such board of aldermen or other submitting board of official. (Ord. #115, May 1977)

**14-103. Additional duties.** The foregoing mentioned functions and duties of said planning commission are not conclusive and said planning commission may in addition thereto do any and all of the things generally done by planning commission of a similar nature when requested to do so by the Board of Aldermen of the said City of Smithville. (Ord. #115, May 1977)

**CHAPTER 2**

**ZONING ORDINANCE**

**SECTION**

14-201. Land use to be governed by zoning ordinance.

**14-201. Land use to be governed by zoning ordinance.** Land use within the City of Smithville shall be governed by Ordinance Number 298, titled "Zoning Ordinance, Smithville, Tennessee," and any amendments thereto.<sup>1</sup>

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<sup>1</sup>Ordinance No. 298, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

## TITLE 15

### MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. RULES OF THE ROAD ADOPTED.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

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

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<sup>1</sup>Municipal code reference

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

<sup>2</sup>State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Damaging pavements.
- 15-121. Bicycle riders, etc.
- 15-122. Compliance with financial responsibility law required.

**15-101. Motor vehicle requirements.** It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1976 Code, § 9-101)

**15-102. Driving on streets closed for repairs, etc.** Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1976 Code, § 9-106)

**15-103. One-way streets.** On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1976 Code, § 9-109)

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

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

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

(c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1976 Code, § 9-110)

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

On two (2) lane and three (3) lane streets the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1976 Code, § 9-111)

**15-106. Yellow lines.** On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1976 Code, § 9-112)

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

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1976 Code, § 9-113)

**15-108. General requirements for traffic-control signs, etc.** All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,<sup>2</sup> published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as being mandatory but is merely directive. (1976 Code, § 9-114)

**15-109. Unauthorized traffic-control signs, etc.** No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles

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<sup>1</sup>Municipal code references

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

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

an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1976 Code, § 9-115)

**15-110. Presumption with respect to traffic-control signs, etc.**

When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1976 Code, § 9-116)

**15-111. Schoolsafety 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. (1976 Code, § 9-117)

**15-112. Driving through funerals or other processions.** Except when otherwise directed by a police officer no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1976 Code, § 9-118)

**15-113. Clinging to vehicles in motion.** It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1976 Code, § 9-120)

**15-114. Riding on outside of vehicles.** It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1976 Code, § 9-121)

**15-115. Backing vehicles.** The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1976 Code, § 9-122)

**15-116. Projections from the rear of vehicles.** Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ( $\frac{1}{2}$ ) hour after sunset and one-half ( $\frac{1}{2}$ ) 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. (1976 Code, § 9-123)

**15-117. Causing unnecessary noise.** It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1976 Code, § 9-124)

**15-118. Vehicles and operators to be licensed.** It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1976 Code, § 9-125)

**15-119. Passing.** Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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

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

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right. When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1976 Code, § 9-126)

**15-120. 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, tires, or track is likely to damage the surface or foundation of the street. (1976 Code, § 9-119)

**15-121. Bicycle riders, etc.** Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

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

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

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

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

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1976 Code, § 9-127)

**15-122. Compliance with financial responsibility law required.**

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under Title 55, Chapters 8 and 10, Parts 1-5, Chapter 50; any

provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from a insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, Chapter 12, Title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, Chapter 12, Title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the Department of Safety or the Interstate Commerce Commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) 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 civil penalty of up to fifty dollars (\$50.00). The civil penalty described 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. #320, March 2002)

## CHAPTER 2

### EMERGENCY VEHICLES

#### SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

**15-201. Authorized emergency vehicles defined.** Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1976 Code, § 9-102)

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

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

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

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1976 Code, § 9-103)

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<sup>1</sup>Municipal code reference

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

**15-203. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1976 Code, § 9-104)

**15-204. Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1976 Code, § 9-105)

**CHAPTER 3****SPEED LIMITS****SECTION**

- 15-301. In general.
- 15-302. At intersections.
- 15-303. In school zones.
- 15-304. In congested areas.

**15-301. In general.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits in which cases the posted speed limit shall apply. (1976 Code, § 9-201)

**15-302. At intersections.** It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1976 Code, § 9-202)

**15-303. In school zones.** It shall be unlawful for any person to operate or drive a motor vehicle at a rate of speed in excess of fifteen (15) miles per hour when passing a school during recess or while children are going to or leaving school during its opening or closing hours. (1976 Code, § 9-203)

**15-304. In congested areas.** It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1976 Code, § 9-204)

## CHAPTER 4

TURNING MOVEMENTS

## SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

**15-401. Generally.** No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>1</sup> (1976 Code, § 9-301)

**15-402. Right turns.** Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1976 Code, § 9-302)

**15-403. Left turns on two-way roadways.** At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center lines of the two roadways. (1976 Code, § 9-303)

**15-404. Left turns on other than two-way roadways.** At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1976 Code, § 9-304)

**15-405. U-turns.** U-turns are prohibited. (1976 Code, § 9-305)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

**CHAPTER 5****STOPPING AND YIELDING****SECTION**

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. At pedestrian-control signals.
- 15-510. Stops to be signaled.

**15-501. Upon approach of authorized emergency vehicles.**<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1976 Code, § 9-401)

**15-502. When emerging from alleys, etc.** The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1976 Code, § 9-402)

**15-503. To prevent obstructing an intersection.** No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1976 Code, § 9-403)

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<sup>1</sup>Municipal code reference

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

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

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

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

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1976 Code, § 9-404)

**15-505. At "stop" signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1976 Code, § 9-405)

**15-506. At "yield" signs.** The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1976 Code, § 9-406)

**15-507. At traffic-control signals generally.** Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

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

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

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

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

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

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

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

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

(4) Steady red with green arrow:

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

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

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1976 Code, § 9-407)

**15-508. At flashing traffic-control signals.** (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1976 Code, § 9-408)

**15-509. At pedestrian-control signals.** Wherever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:

(1) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1976 Code, § 9-409)

**15-510. Stops to be signaled.** No person operating a motor vehicle shall stop such vehicle whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency. (1976 Code, § 9-410)

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

## CHAPTER 6

### PARKING

#### SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Parking meter spaces.
- 15-607. Unlawful to deface or tamper with meters.
- 15-608. Unlawful to deposit slugs in meters.
- 15-609. Presumption with respect to illegal parking.

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

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

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1976 Code, § 9-501)

**15-602. Angle parking.** On those streets which have been signed or marked by the city for angle parking no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1976 Code, § 9-502)

**15-603. Occupancy of more than one space.** No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the

street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1976 Code, § 9-503)

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

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection or within fifteen (15) feet thereof;
- (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. (1976 Code, § 9-504)

**15-605. Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1976 Code, § 9-505)

**15-606. Parking meter spaces.** Parking is permitted within the spaces for a period of two (2) hours only per day, and parking a vehicle, or leaving same standing, in any of the presently located parking meter spaces in excess of two (2) hours shall constitute a violation of this section and shall constitute illegal parking and subject the offender to the penalty and fine established in § 15-706(2). (Ord. #148, Nov. 1980)

**15-607. Unlawful to deface or tamper with meters.** It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (1976 Code, § 9-510)

**15-608. Unlawful to deposit slugs in meters.** It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States. (1976 Code, § 9-511)

**15-609. 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. (1976 Code, § 9-512)

## CHAPTER 7

### ENFORCEMENT

#### SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of "abandoned motor vehicles."
- 15-706. Violation and penalty.

**15-701. Issuance of traffic citations.**<sup>1</sup> 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. (1976 Code, § 9-601)

**15-702. Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1976 Code, § 9-602)

**15-703. Illegal parking.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1976 Code, § 9-603, modified)

**15-704. Impoundment of vehicles.** Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 7-63-101, et seq.

vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. 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. (1976 Code, § 9-604)

**15-705. Disposal of "abandoned motor vehicles."** "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1976 Code, § 9-605)

**15-706. Violation and penalty.** Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is for parking in parking meter spaces for a period in excess of two (2) continuous hours, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city's secretary and treasurer a fine of \$2.00 provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant for his arrest is issued for such violation, his fine shall be \$5.00.

(b) Other parking violations excluding handicapped parking. For other parking violations the offender may similarly waive his right to a judicial hearing and have the charges against him disposed of out of court, but the fines shall be \$5.00 within ten (10) days and thereafter. (1976 Code, § 9-603, as amended by Ord. #148, Nov. 1980)

**CHAPTER 8**

**RULES OF THE ROAD ADOPTED**

**SECTION**

15-801. Adoption of state traffic and regulations.

**15-801. Adoption of state traffic and regulations.** (1) The City of Smithville, Tennessee does henceforth adopt the provisions of Title 55, Chapter 8, Sections 101 et seq. as part of its code of municipal ordinances.

(2) Violations of each enumerated section shall be punishable by a fine of no more than such violation would be punishable under Tennessee Code Annotated. (as added by Ord. #318, Nov. 2001)

## TITLE 16

### STREETS AND SIDEWALKS, ETC<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. STREET NAMES AND PROPERTY NUMBERS.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Use, possession, and sale of certain chemical/products restricted during the annual Smithville Fiddler's Jamboree.
- 16-115. Play vehicles regulated.
- 16-116. Obstruction of highways and other passageways.

**16-101. Obstructing streets, alleys, or sidewalks prohibited.** No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1976 Code, § 12-101)

**16-102. Trees projecting over streets, etc., regulated.** It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

(14) feet or over any sidewalk at a height of less than eight (8) feet. (1976 Code, § 12-102)

**16-103. Trees, etc., obstructing view at intersections prohibited.** It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1976 Code, § 12-103)

**16-104. Projecting signs and awnings, etc., restricted.** Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.<sup>1</sup> (1976 Code, § 12-104)

**16-105. Banners and signs across streets and alleys restricted.** It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the governing body after a finding that no hazard will be created by such banner or sign. (1976 Code, § 12-105)

**16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1976 Code, § 12-106)

**16-107. Littering streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1976 Code, § 12-107)

**16-108. Obstruction of drainage ditches.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1976 Code, § 12-108)

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

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<sup>1</sup>Municipal code reference  
Building code: title 12, chapter 1.

remove all accumulated snow and ice from the abutting sidewalk. (1976 Code, § 12-109)

**16-110. Parades, etc., regulated.** It shall be unlawful for any person, club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the city's secretary and treasurer. No permit shall be issued by the secretary and treasurer unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1976 Code, § 12-110)

**16-111. Operation of trains at crossings regulated.** No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1976 Code, § 12-111, modified)

**16-112. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1976 Code, § 12-112)

**16-113. Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1976 Code, § 12-113)

**16-114. Use, possession, and sale of certain chemical/products restricted during the annual Smithville Fiddler's Jamboree.** All use, possession and sale of "string-confetti," invisible ink, "snap-poppers," stink bombs, cherry bombs, "lite rope" and any such related chemicals/products shall be strictly and expressly prohibited within the city limits of Smithville seven (7) consecutive days prior to the commencement of the annual Smithville Fiddler's Jamboree and seven consecutive (7) days following the conclusion of the annual Smithville Fiddler's Jamboree. Each violation of this section shall be punishable by a fifty dollar (\$50.00) fine. (as added by Ord. #302, June 2000, and replaced by Ord. #315, May 2001)

**16-115. Play vehicles regulated.** It shall be unlawful for any person to use in-line skates, roller skates, skateboards, or any similar vehicle or toy or

article on wheels on any public street, roadway, alley, sidewalk, or other public building or public place within the central business district of the City of Smithville, except in such areas as may be specifically designated for such purpose by the city board. (as added by Ord. #321, April 2002)

**16-116. Obstruction of highways and other passageways.** (1) No organization shall be eligible to obstruct any highway or other passageway for the purpose of soliciting or collecting funds at a highway or street intersection unless said organization has received a determination of exemption from the Internal Revenue Service under 26 U.S.C. § 501 (c) (3) or (4) as a charitable, eleemosynary, or non-profit organization.

(2) Any organization seeking to obstruct a highway or other passageway for the purpose of soliciting or collecting funds at a highway or street intersection must present written proof of its exemption from the Internal Revenue Service under 26 U.S.C. § 501 (c) (3) or (4).

(3) The members of any charitable, eleemosynary, or non-profit organization seeking to obstruct a highway or other passageway for the purpose of soliciting or collecting funds at a highway or street intersection shall undertake reasonable and prudent precautions to prevent both disruption of traffic flow and injury to persons or property.

(4) The charitable, eleemosynary, or non-profit organization seeking to obstruct a highway or other passageway for the purpose of soliciting or collecting funds at a highway or street intersection shall submit, in writing, to the chief of police its proposal for the specific time and place of the obstruction and the precautions to be implemented by the organization.

(5) Before undertaking to obstruct any highway or other passageway for the purpose of soliciting or collecting funds at a highway or street intersection, the charitable, eleemosynary, or non-profit organization must receive prior written approval by the chief of police. Said written approval must set forth with specificity the specific time and place of the obstruction, the highway or other passageway to be obstructed, and the intersection at which the obstruction is to occur. Additionally, the prior written approval must contain a finding by the chief of police that the precautions to be implemented by the charitable, eleemosynary, or non-profit organization for the purpose of preventing both disruption of traffic flow and injury to persons or property are reasonable and prudent. (as added by Ord. #329, Nov. 2002)

## CHAPTER 2

### EXCAVATIONS AND CUTS<sup>1</sup>

#### SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

**16-201. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city's secretary and treasurer is open for business, and said permit shall be retroactive to the date when the work was begun. (1976 Code, § 12-201)

**16-202. Applications.** Applications for such permits shall be made to the secretary and treasurer, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and

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<sup>1</sup>State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

laws relating to the work to be done. Such application shall be rejected or approved by the secretary and treasurer within twenty-four (24) hours of its filing. (1976 Code, § 12-202)

**16-203. Fee.** The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1976 Code, § 12-203)

**16-204. Deposit or bond.** No such permit shall be issued unless and until the applicant therefor has deposited with the secretary and treasurer a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration the secretary and treasurer may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the secretary and treasurer a surety bond in such form and amount as the latter shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1976 Code, § 12-204)

**16-205. Manner of excavating--barricades and lights--temporary sidewalks.** Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1976 Code, § 12-205)

**16-206. Restoration of streets, etc.** Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the city, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel

was made. In case of unreasonable delay in restoring the street, alley, or public place, the secretary and treasurer shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1976 Code, § 12-206)

**16-207. Insurance.** In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the secretary and treasurer in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1976 Code, § 12-207)

**16-208. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the secretary and treasurer. (1976 Code, § 12-208)

**16-209. Supervision.** The secretary and treasurer shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1976 Code, § 12-209)

**16-210. Driveway curb cuts.** No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the secretary and treasurer. (1976 Code, § 12-210)

## CHAPTER 3

### STREET NAMES AND PROPERTY NUMBERS

#### SECTION

16-301. Street map adopted.

16-302. Street names.

16-303. Property numbering system adopted.

16-304. Assignment of numbers.

16-305. Administration of numbering system.

**16-301. Street map adopted.** There is hereby established an official system of street names in the City of Smithville as shown on the map entitled Smithville Official Street Name and Property Numbering System, dated February, 1983, as produced by the municipal planning commission, a copy of which is on file in the office of the secretary and treasurer. (1976 Code, § 12-301, as amended by Ord. #168, March 1983)

**16-302. Street names.** Naming of streets or changes in street names in the City of Smithville will first be reviewed by the Smithville Planning Commission to eliminate similarities or duplications. Their recommendation will be forwarded to the board of aldermen. Approval of new street names or changes in street names will be by ordinance. Extensions of existing streets will use the name of the existing street. A majority of the persons living or owning property on a street may propose name change(s) in writing to the planning commission. (Ord. #168, March 1983)

**16-303. Property numbering system adopted.** A uniform system of numbering properties and principal buildings, as shown on the map identified by the title Smithville Official Street Name and Property Numbering System which is filed in the office of the secretary and treasurer, is hereby adopted for use in the City of Smithville. This map and all explanatory matter thereon, is here by adopted and made a part of this section. (1976 Code, § 12-304)

**16-304. Assignment of numbers.** All properties or parcels of land within the corporate limits of Smithville shall hereafter be identified by reference to the uniform numbering system adopted herein. All existing numbers not now in conformity with the provisions of this chapter shall be changed to conform within two (2) months from the date of adoption of the revised map (March 7, 1983).

Each principal building shall bear the number assigned to the frontage of which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance

of such principal building shall bear a separate number or be identified with a number or letter, with the structure having its address also displayed.

Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted so as to be visible from the street on which the property is located.

Numerals posted shall be no less than three (3) inches in height. (1976 Code, § 12-305, as amended by Ord. #168, March 1983)

**16-305. Administration of numbering system.** The Secretary-Treasurer of the City of Smithville, or his designated representative, shall be responsible for maintaining the numbering system and keeping a record of all numbers assigned:

(1) He/she shall be guided by the provisions of this chapter.

(2) When necessary, new addresses will be assigned by the secretary-treasurer or his designated representative upon issuance of a building permit, or upon approval of a subdivision plat. In addition, a number may be assigned or adjusted when a new front entrance is opened or if a property owner experiences an undue hardship with his assigned number.

(3) The secretary-treasurer may request that the Smithville Municipal Planning Commission resolve problems or conflicts with the property numbering and street naming system and map(s).

(4) The Secretary-Treasurer of Smithville, or his designated representative will make the additions and changes in the numbering system available to utility companies, emergency agencies, and the post office.

(5) The official map will be amended at least yearly to include all changes in numbers and street names. (Ord. #168, March 1983)

**TITLE 17**

**REFUSE AND TRASH DISPOSAL<sup>1</sup>**

**CHAPTER**

1. REFUSE.
2. PLACEMENT OF INFECTIOUS WASTE IN GARBAGE COLLECTION CONTAINERS.

**CHAPTER 1**

**REFUSE**

**SECTION**

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.

**17-101. Refuse defined.** Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1976 Code, § 8-201)

**17-102. Premises to be kept clean.** All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1976 Code, § 8-202)

**17-103. Storage.** Each owner, occupant, or other responsible person using or occupying any building or other premises within this city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the city handles mechanically. Furthermore, except for containers which the city handles mechanically, the combined weight of any refuse container and its contents shall

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<sup>1</sup>Municipal code reference  
Property maintenance regulations: title 13.

not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. (1976 Code, § 8-203)

**17-104. Location of containers.** Where alleys are used by the city's refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1976 Code, § 8-204)

**17-105. Disturbing containers.** No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1976 Code, § 8-205)

**17-106. Collection.** All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the board of mayor and aldermen shall designate. Collections shall be made regularly in accordance with an announced schedule. (1976 Code, § 8-206)

**17-107. Collection vehicles.** The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1976 Code, § 8-207)

**17-108. Disposal.** The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (1976 Code, § 8-208)

## CHAPTER 2

### PLACEMENT OF INFECTIOUS WASTE IN GARBAGE COLLECTION CONTAINERS

#### SECTION

17-201. Definitions.

17-202. Infectious waste prohibited in residential containers; exception.

17-203. Enforcement.

17-204. Testing of infectious waste.

17-205. Suspension of garbage pickup.

17-206. Violation.

**17-201. Definitions.** For the purpose of interpreting and applying this chapter, the following words shall have the meanings indicated:

(1) "Infectious waste" means needles, syringes, lancets, scalpel blades, contaminated broken or sharp laboratory glassware including slides, cover slips, and pasteur pipettes, and any other sharp objects that may potentially spread infectious disease.

(2) "Resident" means any citizen of the City of Smithville who has their household waste collected by or on behalf of the City of Smithville.

(3) "Container" means any puncture-proof plastic container with a tight-fitting screw top, i.e., a sharps container. (as added by Ord. #352, July 2003)

**17-202. Infectious waste prohibited in residential containers; exception.** It shall be unlawful for any resident to dispose of infectious waste, including needles, syringes, lancets, scalpel blades, contaminated broken or sharp laboratory glassware including slides, cover slips, pasteur pipettes, and any other sharp objects that may potentially spread infectious disease in residential garbage containers for collection by city workers or others who may collect garbage on behalf of the City of Smithville, except where such needles and other infectious waste are properly stored in containers so that solid waste collectors and processors may not come in contact with the infectious waste. (as added by Ord. #352, July 2003)

**17-203. Enforcement.** The mayor, or his designee, shall have the authority to administer and enforce the provisions of this chapter related to disposal of infectious waste by city residents. (as added by Ord. #352, July 2003)

**17-204. Testing of infectious waste.** The mayor, or his designee, shall assume that any infectious waste, as defined by this chapter, is a potential carrier of infectious disease, and shall have the authority to call upon any

medical professional or laboratory to inspect any infectious waste discarded in household waste in the City of Smithville, should he/she feel it necessary. (as added by Ord. #352, July 2003)

**17-205. Suspension of garbage pickup.** In the event that the mayor, or his designee, determines that infectious waste has been improperly disposed of in residential containers, and that the violation constitutes an immediate hazard to the health, safety, and welfare of the citizens of the city or waste collectors, he/she may immediately suspend pickup of the resident's garbage. (as added by Ord. #352, July 2003)

**17-206. Violation.** It shall be unlawful for any person to violate any provision of this chapter. A civil penalty of fifty dollars (\$50.00) shall be assessed for each separate violation of this chapter. Each day a violation occurs shall be considered a separate offense. (as added by Ord. #352, July 2003)

## TITLE 18

### WATER AND SEWERS<sup>1</sup>

#### CHAPTER

1. WATER AND SEWER SYSTEM ADMINISTRATION.
2. SEWER USE ORDINANCE.
3. SUPPLEMENTARY SEWER REGULATIONS.
4. SEWAGE AND HUMAN EXCRETA DISPOSAL.
5. SURPLUS WATER RATES.
6. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

#### CHAPTER 1

### WATER AND SEWER SYSTEM ADMINISTRATION

#### SECTION

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

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

- 18-123. Liability for cutoff failures.
- 18-124. Restricted use of water.
- 18-125. Interruption of service.
- 18-126. Schedule of rates.
- 18-127. Fluoridation of water.

**18-101. Application and scope.** The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1976 Code, § 13-101)

**18-102. Definitions.** (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the city under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water or sewer main of the city to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the city's water main to and including the meter and meter box.

(4) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(5) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1976 Code, § 13-102)

**18-103. Obtaining service.** A formal application for either original or additional service must be made and be approved by the city before connection or meter installation orders will be issued and work performed. (1976 Code, § 13-103)

**18-104. Application and contract for service.** Each prospective customer desiring water and/or sewer service will be required to sign a standard form contract before service is supplied. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the city for the expense incurred by reason of its endeavor to furnish such service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the city to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter, the liability of the city to the applicant shall be limited to the return of any deposit made by such applicant. (1976 Code, § 13-104)

**18-105. Service charges for temporary service.** Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1976 Code, § 13-105)

**18-106. Re-connection charge.** Whenever service has been discontinued as provided for above, a re-connection charge shall be collected by the city before service is restored. The charge shall be two dollars and fifty cents (\$2.50) for reconnections during regular working hours and five dollars (\$5.00) for reconnections after regular working hours. (1976 Code, § 13-116)

**18-107. Water and sewer main extensions.**<sup>1</sup> Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

For water main extensions cement-lined cast iron pipe, class 150 American Water Works Association Standard (or other construction approved by the board of mayor and aldermen), not less than six (6) inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 1,000 feet from the most distant part of any dwelling structure and no farther than 600 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances; cement-lined cast iron pipe (or other construction approved by the governing body) two (2) inches in diameter, to supply dwellings only, may be used to supplement such lines. For sewer main extensions eight-inch pipe of vitrified clay or other construction approved by the board of mayor and aldermen shall be used.

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

Upon completion of such extensions and their approval by the city, such water and/or sewer mains shall become the property of the city. The persons paying the cost of constructing such mains shall execute any written instruments requested by the city to provide evidence of the city's title to such mains. In consideration of such mains being transferred to it, the city shall incorporate said mains as an integral part of the city water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of the mains. (1976 Code, § 13-108)

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<sup>1</sup>Municipal code reference

Construction of building sewers: title 18, chapter 2.

**18-108. Water and sewer main extension variances.** Whenever the board of mayor and aldermen is of the opinion that it is to the best interest of the city and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the board.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the city to make such extensions or to furnish service to any person or persons. (1976 Code, § 13-109)

**18-109. Meters.** All meters shall be installed, tested, repaired, and removed only by the city.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the city. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1976 Code, § 13-110)

**18-110. Meter tests.** The city will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The city will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

<u>Meter Size</u>	<u>Test Charge</u>
5/8", 3/4", 1"	\$2.00
1-1/2", 2"	5.00
3"	8.00
4"	12.00
6" and over	20.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the city. (1976 Code, § 13-111)

**18-111. Multiple services through a single meter.** No customer shall supply water or sewer service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the city's applicable water schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1976 Code, § 13-113)

**18-112. Billing.** Bills for residential water and sewer service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the city.

Both charges shall be collected as a unit; no city employee shall accept payment of water service charges from any customer without receiving at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined bill.

All bills shall be considered due and payable on or before the tenth (10th) day following the date a bill is rendered, and a service charge equivalent to ten percent (10%) of the bill shall be added and collected if such bill is not paid within the ten-day period.

If said delinquent bill is not paid within twenty (20) days further after said ten-day period, the city shall cause the water to be disconnected from the premises and the same shall not again be connected or used until all the delinquent accounts and bills for services are paid in full, including the fee for reconnecting said water service.

The city shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the due date for payment of a bill fall on Sunday or a holiday, the business day next following the due date will be the last day to pay without the service charge.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available. (1976 Code, § 13-114)

**18-113. Discontinuance or refusal of service.** The city shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

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

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1976 Code, § 13-115)

**18-114. Termination of service by customer.** Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the city reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the city shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the city should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of the ten (10) day period.

(2) During the ten (10) day period, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the city to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1976 Code, § 13-117)

**18-115. Access to customers' premises.** The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1976 Code, § 13-118)

**18-116. Inspections.** The city shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by city ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (1976 Code, § 13-119)

**18-117. Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to properly care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1976 Code, § 13-120)

**18-118. Customer's responsibility for violations.** Where the city furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1976 Code, § 13-121)

**18-119. Supply and resale of water.** All water shall be supplied within the city exclusively by the city and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the city. (1976 Code, § 13-122)

**18-120. Unauthorized use of or interference with water or sewer service.** It shall be unlawful for any person to injure or destroy any of the pipes, fixtures, or other property of the City of Smithville Waterworks and Sewer System, or to turn on water, or to make any connection with the pipes of

the water and/or sewer system, or other fixtures, either before or after the same have been shut off, stopped, or disconnected by the city, and it shall likewise be unlawful for any person to make any tap or connection with any water or sewer main, or any pipe connected thereto, or any plant belonging to the city, without first obtaining a written permit from the city. (1976 Code, § 13-123)

**18-121. Limited use of unmetered private fire line.** Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the city.

All private fire hydrants shall be sealed by the city, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the city a written notice of such occurrence. (1976 Code, § 13-124)

**18-122. Damages to property due to water pressure.** The city shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains. (1976 Code, § 13-125)

**18-123. Liability for cutoff failures.** The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the city has failed to cut off such service.

(2) The city has attempted to cut off a service but such service has not been completely cut off.

(3) The city has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main.

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1976 Code, § 13-126)

**18-124. Restricted use of water.** In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1976 Code, § 13-127)

**18-125. Interruption of service.** The city will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the city water and sewer systems, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The city shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1976 Code, § 13-128)

**18-126. Schedule of rates and charges.** All water and sewer service shall be furnished and charged for in accordance with the following schedule:

(1) Water rates.

<u>Amount of Water</u>	<u>Inside City Limits</u>	<u>Outside City Limits</u>
1st 1,500 gallons	\$3.50	\$5.25
Next 2,500 gallons	1.25/1,000 gallons	1.56/1,000 gallons
" 6,000 gallons	1.13/1,000 gallons	1.25/1,000 gallons
" 10,000 gallons	.94/1,000 gallons	1.13/1,000 gallons
" 10,000 gallons	.75/1,000 gallons	.94/1,000 gallons
" 10,000 gallons	.63/1,000 gallons	.75/1,000 gallons
" 10,000 gallons	.50/1,000 gallons	.63/1,000 gallons
Over 50,000 gallons	.38/1,000 gallons	.50/1,000 gallons

(2) Sewer rates.

Fifty percent (50%) of water bill.

(3) Connection fees.

Water-\$150.00 inside city limits; \$300.00 outside city limits.

Sewer-\$100.00 inside city limits; \$200.00 outside city limits.

On all premises having a private water supply and connected with the sewer system there shall be installed a meter for measuring the amount of water supply to the premises.

(4) The City of Smithville is subject to established rates or charges. The City of Smithville shall be subject to the established charges and rates, or to charges and rates established in harmony therewith, for services rendered to the city, and shall pay such charges or rates when due from corporate funds. The same shall be deemed to be a part of the revenues of the waterworks and sewer system to be applied as provided for the application of such revenues.

(5) Fire hydrant rental. The fire hydrant rental to be charged the City of Smithville is hereby set to be sixty dollars (\$60.00) per year for each hydrant.

(6) Disposition of revenues of the waterworks and sewer system. All revenues derived from the operation of the waterworks and sewer system shall be set aside as collected and deposited in the City of Smithville Water and Sewer Revenue Fund created pursuant to the trust agreement entered into between the city and the First American National Bank on September 1, 1959, and shall be held and handled and disbursed only in accordance with the provisions of said trust agreement and shall always be sufficient to make all sinking fund, reserve, and other payments on the aforesaid junior lien bonds. (1976 Code, § 13-112)

**18-127. Fluoridation of water.** The water department is hereby authorized and instructed to make plans for the fluoridation of the water supply of the City of Smithville; to submit such plans to the Department of Health and the State of Tennessee for approval; and, upon approval, to add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of said water supply.

The cost of such fluoridation will be borne by the revenues of the water department. (1976 Code, § 13-129)

## CHAPTER 2

### SEWER USE ORDINANCE

#### SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
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- 18-206. Federal categorical pretreatment standards.
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- 18-208. Limitations on wastewater strength.
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- 18-210. State requirements.
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- 18-224. Administration.
- 18-225. Building sewers and connections.
- 18-226. Enforcement.
- 18-227. Surcharges and reimbursements.
- 18-228. Penalty; costs.

**18-201. Purpose and policy.** (1) This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Smithville, Tennessee, hereinafter known as the control authority and enables the control authority to comply with all applicable state and federal laws required by the Clean Water Act of 1977, as amended, the State of Tennessee's General Pretreatment Regulations, and the Federal Pretreatment Regulations (40 CFR, Part 403).

(2) The objectives of this ordinance are:

(a) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving water or the atmosphere or otherwise be incompatible with the system;

(c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(d) To provide for equitable distribution of the cost of the municipal wastewater system.

(3) This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users. The SUO also 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.

(4) This ordinance shall apply to the City of Smithville and to persons outside the control authority who are, by contract or agreement with the control authority, users of the City of Smithville's Publicly Owned Treatment Works (POTW). Except as otherwise provided herein, the mayor or his representative shall administer, implement, and enforce the provisions of this ordinance. (Ord. #234, \_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-202. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, 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 of the Division of Water Pollution Control, Tennessee Department of Environment and Conservation.

(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 (68 degrees Fahrenheit)

expressed in terms of weight [pounds per day (lb/day)] and concentration [milligrams per liter (mg/l)].

(5) "Building drain." The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning five (5) feet outside the inner face of the building wall.

(6) "Building sewer." The extension from the building drain to the public sewer or other place of disposal.

(7) "Categorical standards." National categorical pretreatment standards or pretreatment standard.

(8) "City council." The person elected board of mayor and aldermen.

(9) "Combined sewer." A sewer receiving both sewage and surface runoff from down spouts, storm sewers and surface or groundwater.

(10) "Compatible pollutant." Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria; plus any additional pollutants identified in the publicly owned treatment works NPDES permit, where the publicly owned treatment works is designed to treat such pollutants and, in fact, also treat such pollutants to the degree required by the POTW's NPDES permit.

(11) "Control authority." The Mayor of the City of Smithville, Tennessee or his representative.

(12) "Cooling water." The water discharge from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(13) "Customer." Any individual, partnership, corporation, co-partnership, company, joint stock company, trust, estate, government entity, or any other legal entity or their legal agents or assigns who receives sewer service from the control authority under either an expressed or implied contract requiring payment to the control authority for such service. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

(14) "Daily average loading." The average over a three (3) month period of waste constituents found in a 24-hour period in the sewage entering the influent of the POTW of the City of Smithville, Tennessee.

(15) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(16) "Domestic waste(s)." Liquid wastes

(a) from the non-commercial preparation, cooking, and handling of food, or

(b) containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions.

(17) "Environmental Protection Agency, or EPA." The U.S. Environmental Protection Agency, or, where appropriate, the term may also be

used as a designation for the administrator or other duly authorized official of the said agency.

(18) "Ether soluble material." The quantity of solid obtained through the use of the ether extraction process as outlined for oils and greases in the latest edition of "Standard Methods for the Examination of Water and Wastewater".

(19) "Garbage." Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage and sale of produce.

(20) "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.

(21) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(22) "Incompatible pollutant." All pollutants other than compatible pollutants as defined in (11) of this article.

(23) "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).

(24) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 502 of the Act (33 U.S.C. 1342).

(25) "Interference." The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the control authority's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use by the POTW.

(26) "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.

(27) "National prohibitive discharge standard or prohibitive discharge standard." Any regulation developed under the authority of Section 307(b) of the Act and 40 CFR, Section 403.5.

(28) "Natural outlet." Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

(29) "New source." 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 new facility is engaged in the same general type of activity as the existing source should be considered.

(i) Construction on the site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of this paragraph but otherwise alters, replaces, or adds to existing process or production equipment.

(ii) 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

(3) 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.

(30) "National pollutant discharge elimination system or NPDES permit." A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

(31) "Normal sewage." Sewage shall be regarded as normal for the control authority, if analyses show a daily average loading of not more than 300 milligrams per liter of BOD<sub>5</sub>; not more than 800 milligrams per liter of COD; not more than 300 milligrams per liter of total suspended solids, not more than 30 milligrams per liter of ammonia-nitrogen; not more than 60 milligrams per liter of total Kjeldahl nitrogen; and not more than 100 milligrams per liter of ether soluble matter (oil and grease).

(32) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(33) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(34) "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.

(35) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by 40 CFR Section 403.6(d).

(36) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

(37) "Properly shredded garbage." The wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles are carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half ( $\frac{1}{2}$ ) inch in any dimension.

(38) "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 control authority. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons inside and outside the control authority who are, by contract or agreement with the control authority, users of the control authority's POTW.

(39) "Public sewer." A sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

(40) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(41) "Sanitary sewer." A sewer which carries sewage from dwellings (including apartment houses and hotels) office buildings, factories, or institutional buildings and into which storm, surface, and groundwaters are not intentionally admitted.

(42) "Sewer." A pipe or conduit for carrying sewage and other waste liquids.

(43) "Shall" is mandatory; "May" is permissive.

(44) "Significant industrial user." Any industrial user of the control authority's wastewater disposal system who:

(a) is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or

(b) has an average discharge flow of 25,000 gallons per day or more of process wastewater to the POTW; or

(c) contributes 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(d) is designated as such by the control authority of the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(45) "Significant non-compliance:" (a) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a six month period exceed the daily maximum or the average limit for the same pollutant parameter;

(b) Technical Review Criteria (TRC) violations, defined as those in which 33 percent or more of all the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

(c) any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass-through at the POTW including endangering the health of POTW personnel or the general public;

(d) any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

(e) failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in the discharge permit or an enforcement order for starting construction, completing construction, or attaining final compliance,

(f) failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance

reports, periodic selfmonitoring reports, and reports on compliance with compliance schedules;

(g) failure to accurately report non-compliance;

(h) any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

(46) "Slug discharge." Any discharge of a non-routine, episodic nature, including, but not limited to an accidental spill or a non-customary batch discharge.

(47) "Slug control plan." A plan to control slug discharges, which shall include, as a minimum,

(a) description of discharge practices, including non-routine batch discharges,

(b) description of stored chemicals,

(c) procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a discharge prohibition under this ordinance, or 40 CFR 403.5(b), with procedures for follow-up written notification within 5 days,

(d) if necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

(48) "State." The State of Tennessee Department of Environment and Conservation.

(49) "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.

(50) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters, upon approval of the mayor or his representative.

(51) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(52) "Superintendent." The General Superintendent of Water and Sewer Department of the City of Smithville, Tennessee or his representative.

(53) "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.

(54) "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.

(55) "Twenty-four hour flow proportional composite sample." A sample consisting of several wastewater portions during a 24-hour period in which the portions are proportional to the flow and combine to form a representative sample.

(56) "Unpolluted water or waste." Any water or waste containing no free or emulsified grease or oil; acid or alkali; phenols or other substances imparting taste and odor in receiving water; toxic and poisonous substances in suspension, colloidal state or solution; and noxious or odorous gases and/or other polluting materials.

(57) "User." Any customer who contributes, causes or permits the contribution of wastewater into the control authority's POTW.

(58) "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.

(59) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies of accumulation 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.

(60) "Wastewater discharge permit." As set forth in § 18-223(2) of this ordinance. (Ord. #234, \_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-203. Abbreviations.** The following abbreviations shall have the designated meanings:

BOD <sub>5</sub>	-	Five-day Biochemical Oxygen Demand.
CFR	-	Code of Federal Regulations.
COD	-	Chemical Oxygen Demand.
CWA	-	Clean Water Act.
EPA	-	Environmental Protection Agency.
l	-	Liter.
mg	-	Milligrams.
mg/l	-	Milligrams per liter.
NPDES	-	National Pollutant Discharge Elimination System.
NAICS	-	North American Industrial Categorical Standards.
POTW	-	Publicly Owned Treatment Works.
SWDA	-	Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
USC	-	United States Code.

TSS - Total Suspended Solids. (Ord. #234, \_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-204. General discharge prohibitions.** (1) 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:

(a) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or by injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than five percent (5%), nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, waste streams with a closed cup flash point of less than 104°F or 60°C using the test methods specified in 40 CFR 261.21, and any other substances which the control authority, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage or improperly shredded garbage with particles greater than one-half inch (½") 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.

(c) Any wastewater having a pH less than 5.0 or greater than 9.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the

POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307 (a) of the Act.

(e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, 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, the Toxic Substances Control Act, the Clean Water Act, or state criteria applicable to the sludge management method being used.

(g) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.

(h) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40°C (104°F) unless the POTW treatment plant is designed to accommodate such temperature.

(j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which 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 or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(k) Any wastewater containing any radioactive waste or isotopes of such halflife or concentration as may exceed limits established by the control authority in compliance with applicable state or federal regulations.

(l) Any wastewater which causes a hazard to human life or creates a public nuisance.

(m) Any wastewater containing petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause

interference with the POTW or pass through at the wastewater treatment plant.

(2) When the control authority determines that a user(s) is contributing to the POTW any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the control authority shall:

(a) Advise the user(s) of the impact of the contribution on the POTW; and

(b) Develop effluent limitation(s) for such user(s) to correct the interference with the POTW. (Ord. #234, \_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-205. Fats, oils, and grease, waste food, and sand guidelines.**

Fat, 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 can contribute waste of a strength or form that is beyond the treatment capability of the treatment plant.

(1) Interceptors. Fat, 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.

(a) Fat, oil, grease, and food wastes. (i) 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 750 gallons. 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. Designed criteria will 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.

(ii) 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 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 will be required.

(b) 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 sewers.

(c) 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 ½-inch 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 must be designed in accordance with Southern 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 SUO, 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 control authority personnel, and all of the deficiencies have been corrected, there shall be no charge for the re-inspection. If all of the deficiencies have not been corrected, a first re-inspection fee of \$50 shall be charged to the facility. If a second re-inspection is required, a second re-inspection fee of \$150 shall be

charged to the facility if all of the deficiencies have still not been corrected. If a third or more re-inspections are required a re-inspection fee of \$300 for each successive re-inspection shall be charged to the facility in addition to other enforcement actions if all of the deficiencies have still not been corrected.

(2) Solvents. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. (as added by Ord. #334, Dec. 2002)

**18-206. Federal categorical pretreatment standards.** Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this ordinance for sources in that subcategory, shall immediately supersede the limitations imposed under this ordinance. The mayor shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12. (Ord. #234, \_\_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-207. Modification of federal categorical pretreatment standards.** Where the control authority's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the control authority may apply to the approval authority for modification of specific limits in the federal pretreatment standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system 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 control authority may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the approval authority is obtained. (Ord. #234, \_\_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-208. Limitations on wastewater strength.** No person or user shall discharge wastewater in excess of the concentration set forth in the table below unless:

- (1) an exception has been granted the user by the city council; or
- (2) the wastewater discharge permit of the user provides as a special permit condition a higher interim concentration level in conjunction with a requirement that the user construct a pretreatment facility or institute changes in operation and maintenance procedures to reduce the concentration of pollutants to levels not exceeding the standards set forth in the table within a fixed period of time.

Parameter	Maximum Allowable Concentration in 24 Hour Flow Proportional Composite Sample (mg/l)	Maximum Allowable Instantaneous Concentrations in Grab Sample (mg/l)
BOD <sub>5</sub>	300	450
COD	800	1200
Suspended solids	300	450
Arsenic	1.0	1.5
Asbestos	1.5 x 10 <sup>7</sup> f/l*	2.0 x 10 <sup>7</sup> f/l*
Cadmium	2.0	3.0
Chromium	6.0	9.0
Copper	2.5	4.0
Cyanide	2.0	3.0
Lead	1.0	1.5
Mercury	0.02	0.03
Nickel	5.0	7.5
Selenium	1.0	1.5
Silver	1.0	1.5
Zinc	2.5	4.0
Oil & grease	100.0	150.0
Phenolic Compounds	3.0	4.5

\*f/l=fibers/liter

Any user discharging wastewater having pollutants in excess of the concentrations listed above may be subject to fines and/or surcharges as outlined in § 18-226 hereinafter. (Ord. #234, \_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-209. Criteria to protect the treatment plant influent.** The control authority shall monitor the treatment works influent for the parameters in the following table. The industrial user may be subject to the reporting and monitoring requirements set forth in § 18-224(3) and § 18-224(5) for all or a part of these parameters. In the event that the influent at the treatment works reaches or exceeds the levels established by said table, the mayor or his representative shall initiate technical studies to determine the cause of the influent violation, and shall recommend to the city council such remedial measures as are necessary, included, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The mayor or his representative 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. (Ord. #234, \_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-210. 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 ordinance. (Ord. #234, \_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-211. Control authority's right of revision.** The control authority reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 18-201 of this ordinance. (Ord. #234, \_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-212. 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 control authority or state. The combination of process wastes and domestic wastes prior to discharge is not considered dilution. (Ord. #234, \_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-213. Slug discharges.** Each user shall provide protection from slug discharge of prohibited materials or other substances regulated by this ordinance. Facilities to prevent slug discharge of prohibited 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 control authority for review, and shall be approved by the control authority before construction of the facility. No user who commences contribution to the POTW after the effective date of this ordinance shall be permitted to introduce pollutants into the system until a slug discharge control plan has been approved by the control authority.

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

<u>Parameter</u>	Maximum Allowable Concentration in 24 Hour Flow Proportional <u>Composite Sample</u> (mg/L)	Maximum Allowable Instantaneous Concentration in <u>Grab Sample</u> (mg/L)
Aluminum	15.000	30.00
Antimony	0.500	1.0
Arsenic	0.025	0.05
Asbestos	300,000 f/l*	400,000 f/l*
Barium	2.500	5.00
Beryllium	0.010	0.005
Boron	0.250	0.50
Cadmium	0.014	0.023
Chromium	0.273	0.410
Copper	0.255	0.369
Cyanide	0.018	0.028
Fluoride	10.00	20.00
Iron	5.00	10.00
Lead	0.067	0.103
Manganese	0.05	0.10
Mercury	0.0002	0.0003
Nickel	0.084	0.12
Selenium	0.005	0.01
Silver	0.011	0.017
Titanium	1.00	2.00
Zinc	0.092	0.138
Benzene	0.013	0.02
Combined Phthalate Esters	0.205	0.308
Ethylbenzene	0.018	0.027
Naphthalene	0.003	0.005
Phenol	0.294	0.441
Toluene	0.094	0.190
1,1,1-Trichloroethane	0.13	0.195
1,2 Transdichloroethylene	0.004	0.006
Methylene Chloride	0.114	0.171
Chloroform	0.17	0.255
Tetrachloroethylene	0.089	0.134
Oil & grease	25.00	50.00
Total Kjeldahl Nitrogen (TKN)	45.00	90.00

\* f/l = fibers/liter

meet the requirements of this ordinance. In the case of a slug discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(1) Written notice. Within five (5) days following a slug discharge the user shall submit to the control authority a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(2) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a slug discharge. Employers shall insure that all employees who may cause or suffer such a slug discharge to occur are advised of the emergency notification procedure. (Ord. #234, \_\_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-214. Installation of building sewers.** When connections to the POTW are required and/or permitted the control authority shall be responsible for installing all the necessary lateral lines and facilities from the sewer main to the property line unless there is a written contract between the control authority and the property owner to the contrary.

It is the responsibility of the user to install and maintain sewer lateral lines or building sewers within his property boundaries. The design and construction methods for building sewers within the property boundaries of the user shall be in accordance with the standard specifications on file in the mayor's office. All laterals from the mains to the property line shall be installed through contract by the control authority and assessed to the property owner; however, the control authority still assumes no responsibility. (Ord. #234, \_\_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-215. Discharge of hazardous wastes.** All industrial users shall notify the control authority, the EPA Region IV Waste Management Division Director, and the Tennessee Department of Environment and Conservation Division of Solid Waste Management in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. The notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other).

If the industrial user discharges more than 100 kilograms of such wastes per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily

available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimate of the mass and concentration of such constituents discharged during that calendar month, and an estimate of the mass and concentration of such constituents expected to be discharged during the following 12 months.

Notification shall be provided within 180 days of the discharge. Notification need be submitted only once for each hazardous waste discharged; however, advance notification of substantial change is required.

Industrial users are exempt from notification requirements if:

(1) the pollutants are already monitored and reported under the user's permit requirements; or

(2) less than 15 kilograms of non-acute hazardous wastes are discharged within a calendar month.

If new regulations identify additional characteristics of hazardous wastes or list new hazardous wastes, notification of the appropriate authorities by the industrial user is required within 90 days of the effective date of such regulations.

If notification is required, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. (Ord. #234, \_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-216. Prohibitions on storm drainage and groundwater.** Storm water, ground water, rain water, street drainage, roof top drainage, basement drainage, subsurface drainage, or yard drainage shall not be discharged through direct or indirect connections to the POTW. (Ord. #234, \_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-217. Unpolluted water.** Unpolluted water, including, but not limited to, cooling water in excess of 10,000 gallons per day or process water shall not be discharged through direct or indirect connections to a community sewer unless such discharge is permitted by the user's wastewater discharge permit. A quantity of no more than 10,000 gallons per day of cooling water can be directly discharged by any user to the public sewer. (Ord. #234, \_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-218. Limitations on the use of garbage grinders.** Waste from garbage grinders shall not be discharged into the POTW except where such grinders are installed as a part of a residential dwelling. Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the POTW sewers. Garbage grinders shall not be used for the grinding of plastic, paper products, inert materials, or garden refuse. (Ord #234, \_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-219. Limitations of point of discharge.** No person shall discharge any substance directly into a manhole or other opening in a POTW sewer other than through an approved building sewer unless he shall have been issued a temporary permit by the control authority. The control authority shall incorporate in such temporary permit such conditions as it deems reasonably necessary to insure compliance with the provisions of this article and the user shall be required to pay applicable charges and fees therefor. (Ord. #234, \_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-220. Septic tank pumping, hauling and discharge.** No person owning vacuum or "cess pool" pump trucks or other liquid waste transport trucks shall discharge directly or indirectly such sewage into the POTW, unless such person shall first have applied for and received a Truck Discharge Operation Permit from the control authority. All applicants for a Truck Discharge Operation Permit shall complete such forms as required by the control authority, pay appropriate fees, and agree in writing to abide by the provisions of this article and any special conditions or regulations established by the control authority. The owners of such vehicles shall affix and display the permit number on the side of each vehicle used for such purposes. Such permits shall be valid for a period of one (1) year from date of issuance provided that such permit shall be subject to revocation by the control authority for violation of any provision of this article or reasonable regulation established by the control authority. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. The control authority shall designate the locations and times where such trucks may be discharged, and may refuse to accept any truckload of waste in its absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto.

The minimum charge for disposal of wastewater or sludge removed from septic tanks or sanitary privies into the POTW shall be twenty-five dollars (\$25.00) per load and the maximum charge shall be fifty dollars (\$50.00) per load with the exact charge determined on a volume basis by the mayor or his representative; the schedule of charges may be changed by action of the city council. (Ord. #234, \_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-221. Other holding tank waste.** No person shall discharge any other holding tank waste into the POTW unless he shall have applied for and have been issued a permit by the control authority. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees therefor, and shall comply

with the conditions of the permit issued by the control authority. Provided, however, no permit will be required to discharge domestic waste from a recreational vehicle holding tank, provided such discharge is made into an approved facility designed to receive such waste. (Ord. #234, \_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-222. On-site private wastewater disposal facilities.** No person shall discharge untreated wastewater from on-site private sewage disposal facilities including, but not limited to, sanitary pit privies, septic tanks, and cess pools to drainage ditches or the surface of the ground. All on-site private wastewater disposal facilities shall be properly operated and maintained by the owner. Any new construction of on-site private wastewater disposal facilities shall be in accordance with state and DeKalb County Public Health Department requirements.

Where a property exists within the city limits, which is not within 100 feet of an existing sewer main, the city council may require the property owner to install and/or continue to operate a private sewer system within the rules and regulations of the DeKalb County and State Health Agencies. Said operation of a private system shall be at the expense of the owner.

In the event the DeKalb County and/or State Health Agencies cannot approve a private system, either proposed or in existence, the city council may, upon payment by the owner of all costs, install sanitary sewer to the property line.

Where gravity sewer cannot at reasonable cost be made available to a building, the control authority may provide either a force main access, or a gravity sewer access at the property line for the appropriate fee, and it shall be the owner's responsibility to install equipment to lift building sewage by approved means to such connection provided. (Ord. #234, \_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-223. Charges and fees.** (1) Purpose. It is the purpose of this section to provide a schedule of charges and fees which will enable the control authority to comply with the revenue requirements of Section 204 of the Clean Water Act. Charges and fees shall be determined in a manner consistent with the regulations of the Federal Grant Program to ensure that sufficient revenues are collected to defray the cost of operating and maintaining, including replacement, adequate wastewater collection and treatment system. Specific charges and fees shall be adopted by a separate ordinance; this section describes the procedure to be used in calculating the charges and fees. Additional charges and fees to recover funds for capital outlay, bond service costs and capital improvements may be assessed by the control authority. These charges and fees shall be recovered through the user classification established hereinafter.

(2) Classification of users. All users shall be classified by the superintendent either by assigning each one to a user classification category

according to the principal activity conducted on the user's premises, by individual user analysis, or by a combination thereof. The purpose of classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics.

(3) Types of charges and fees. The control authority may adopt charges and fees which may include, but are not limited to:

- (a) User classification charges;
- (b) Fees for monitoring requested by a user;
- (c) Fees for permit application;
- (d) Appeal fees;
- (e) Charges and fees based on wastewater constituents and characteristics;
- (f) Fee for use of garbage grinders;
- (g) Fees for holding tank wastes;
- (h) Fees for reimbursement of administrative costs related to the pretreatment program;
- (i) Fees for monitoring, inspection and surveillance procedures;
- (j) Fees for reviewing accidental discharge prevention procedures and construction;
- (k) Fees for allowing connection of building sewers to the POTW.

(4) Basis of determination of charges. Charges and fees may be based upon a minimum basic charge for each premise, computed on the basis of "normal wastewater" from a domestic premise with the following characteristics:

BOD <sub>5</sub>	300 milligrams per liter
COD	800 milligrams per liter
TKN	60 milligrams per liter
NH <sub>3</sub> -N	30 milligrams per liter
Suspended Solids	300 milligrams per liter
Oil and Grease	100 milligrams per liter

The charges and fees for all classifications of users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premise.

The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, SS, NH<sub>3</sub> as N, chlorine demand, and volume.

(5) User charges. The fair user charge fee schedule consists of a flat base charge based on an equitable distribution of the administrative costs of providing sewer service to all customers connected to the POTW and to each lot, parcel of land or premises which may now or hereinafter be located within two

hundred (200) feet of a sanitary sewer owned by the control authority, plus an equitable distribution of the costs of operating expenses, debt amortization and depreciation to all customers connected to the POTW based on water usages as determined by water meters owned by the control authority. A surcharge will be levied against those users which discharge wastewater that exceeds the strength of "normal wastewater". The owner or occupant of property obtaining water from a source or sources other than through a meter of the control authority, which water is discharged into the POTW shall install, without cost to the control authority, a meter or meters to measure the quantity of water received from any such source or sources and shall pay the same rate or rates as provided in this chapter. No meter shall be installed or used for such purpose without the approval of the superintendent.

Whenever a property upon which a fair user charge is hereby imposed uses water for industrial, commercial, or air conditioning purposes, and does not discharge it into the POTW but, through agreement with the POTW, discharges it in some other manner, including discharging it into the control authority's storm sewer system, the quantity of water so used and not discharged into the POTW, shall be excluded in determining the sewer service charge of said owner or occupant. However, the quantity of water so used and not discharged into the POTW must be measured by a device or meter approved by the control authority and installed by the owner or occupant without cost to the POTW. The current fair user charge fee schedule and the method used in calculating the fee schedule shall at all times be maintained on file by the superintendent for inspection by the public.

(6) Operation and maintenance user charges. Each user's share of operation and maintenance costs will be computed by the following formula:

$$C_u = \frac{C_t \times (V_u)}{V_t}$$

Where:  $C_u$  = User's charge for O&M per unit of time.  
 $C_t$  = Total O&M cost per unit of time.  
 $V_t$  = Total volume contribution from all users per unit of time.  
 $V_u$  = Volume contribution from a user per unit of time.

Operation and maintenance charges may be established on a percentage of water use charge only in the event that water use charges are based on a constant cost per unit of consumption.

(7) Surcharges. The surcharge will be the user's proportionate share of the O&M costs for handling its periodic volume of wastewater which exceeds the strength of BOD<sub>5</sub>, suspended solids, and/or other elements in "Normal Wastewater" including "toxic wastes."

The surcharge shall be based on the analytical results on not less than three (3) 24-hour composite samples collected at the control manhole at unannounced, but approximately equal intervals during the preceding three months. Samples shall be collected and analyses shall be made by competent operating personnel at the wastewater treatment plant or other persons designated by the control authority in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater".

The amount of the surcharge shall be determined by the following formula:

$$C_s = [(B_c \times B) + (S_c \times S) + P_c \times P] V_u$$

Where:  $C_s$  = Surcharge for wastewater exceeding the strength of "Normal Wastewater" expressed in dollars per billing period.

$B_c$  = O&M cost for treatment of a unit of BOD<sub>5</sub> expressed in dollars per pound.

$B$  = Concentration of BOD<sub>5</sub> from a user above the base level of 2.50 lbs/1,000 gallons expressed in pounds per 1,000 gallons.

$S_c$  = O&M costs for treatment of a unit of suspended solids expressed in dollars per pound.

$S$  = Concentration of suspended solids from a user above the base level of 2.50 lbs/1,000 gallons expressed in pounds per 1,000 gallons.

$P_c$  = O&M cost for treatment of a unit of any pollutant which the POTW is committed to treat by virtue of an NPDES permit or other regulatory requirement expressed in dollars per pound.

$P$  = Concentration of any pollutant from a user above base level. Base levels for pollutants subject to surcharges will be established by the wastewater manager.

$V_u$  = Volume contribution of a user per billing period. (Expressed in thousands of gallons).

The values of parameters used to determine user charges may vary from time to time. Therefore, the superintendent is authorized to modify any parameter or value as often as necessary. Review of all parameters and values

shall be undertaken whenever necessary; but in no case less frequently than biennially.

(8) Notification. Each user shall be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(9) Biennial review of operation and maintenance charges. The control authority shall review not less often than every two (2) years the wastewater contribution of users and user classes, the total costs of operation and maintenance of the treatment works and its approved user charge system. The control authority shall revise the charges for users or user classes to accomplish the following:

(a) Maintain the proportionate distribution of operation and maintenance costs among users and user classes as required herein;

(b) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and

(c) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. (Ord. #234, \_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-224. Administration.** (1) Wastewater discharges. It shall be unlawful to discharge without a control authority permit to any natural outlet within the City of Smithville, or in any area under the jurisdiction of said control authority, and/or to the POTW any wastewater except as authorized by the mayor or his representative in accordance with the provisions of this ordinance.

(2) Wastewater contribution permits. (a) General permits. All significant industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant industrial users connected to or contributing to the POTW shall obtain a wastewater discharge permit within 180 days after the effective date of this ordinance.

(b) Permit application. Users required to obtain a wastewater discharge permit shall complete and file with the control authority an application in the form prescribed by the control authority and accompanied by a fee. Existing significant industrial users shall apply for a wastewater discharge permit within 30 days after the effective date of this ordinance, 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 significant industrial user shall submit, in units and terms appropriate for evaluation, the following information:

- (i) Name, address, and location (if different from the address);
- (ii) NAICS number according to the North American Industrial Categorical Standards;
- (iii) Wastewater constituents and characteristics including, but not limited to, those mentioned in § 18-204 of this ordinance 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;
- (iv) Time and duration of contribution;
- (v) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- (vi) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation;
- (vii) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- (viii) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional Operation and Maintenance (O & M) and/or additional pretreatment is required for the significant industrial user to meet applicable pretreatment standards;
- (ix) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the significant industrial user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

The following conditions shall apply to this schedule:

(A) The schedule shall contain increments of 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.)

(B) No increment referred to in paragraph (A) shall exceed 9 months.

(C) 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 mayor or his representative 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 mayor or his representative.

(x) Each product produced by type, amount, process or processes and rate of production;

(xi) Type and amount of raw materials processed (average and maximum per day);

(xii) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system; and

(xiii) Any other information as may be deemed by the control authority to be necessary to evaluate the permit application.

The control authority will evaluate the data furnished by the significant industrial user and may require additional information. After evaluation and acceptance of the data furnished, the control authority may issue a wastewater discharge permit subject to terms and conditions provided herein.

(c) Permit modifications. Within 9 months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a significant industrial user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by § 18-224(2)(b), the significant industrial user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the significant industrial user with an existing wastewater discharge permit shall submit to the mayor or his representative within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by § 18-224(b)(viii) and (ix).

(d) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this ordinance and all other applicable regulations, user charges and fees established by the control authority. Permits may contain the following:

- (i) Statement of duration (5 years or less);
- (ii) Statement of conditions of transferability;
- (iii) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;
- (iv) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the POTW;
- (v) Limits on the average and maximum wastewater constituents and characteristics;
- (vi) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (vii) Requirements for installation and maintenance of inspection and sampling facilities;
- (viii) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (ix) Compliance schedule;
- (x) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the control authority, and affording the control authority access thereto;
- (xi) Requirements for submission of technical reports or discharge reports (see § 18-224(3));
- (xii) Requirements for notification of the control authority of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (xiii) Requirements for notification of slug discharges; or
- (xiv) Other conditions as deemed appropriate by the control authority to ensure compliance with this ordinance.

(e) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

The significant industrial 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 of the control authority during the term of the permit as limitations or requirements as identified in § 18-204 are modified or other just cause exists. The significant industrial user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of any change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new

significant industrial user, different premises, or a new or changed operation without prior written notice to the control authority, approval granted by the control authority, and a provision is made of transferring a copy of the existing IU permit to the new owner and/or operator. Any succeeding owner or significant industrial user shall also comply with the terms and conditions of the existing permit.

(3) Reporting requirements for permittee. (a) 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 significant industrial user subject to pretreatment standards and requirements shall submit to the control authority a report indicating the nature and concentration of all pollutants in the discharge from the regulated processes which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the significant industrial user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the significant industrial user, and certified by a qualified professional.

(b) Periodic compliance reports. (i) Any significant industrial user subject to pretreatment standard, after the compliance date of such pretreatment standard, or in the case of a new source, after commencement of the discharge into the POTW, shall submit to the control authority during the months of June and December, unless required more frequently in the pretreatment standard or by the control authority, a report indicating the nature and concentration of pollutants in the effluent 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 § 18-224(4) of this section. At the discretion of the control authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the control authority may agree to alter the months during which the above reports are to be submitted.

(ii) The control authority may impose mass limitation on significant industrial 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 sub-paragraph (i) of this

paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the significant industrial user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the control authority, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable industrial user permit. All analyses shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator.

(c) Permit limit violations. If sampling performed by an industrial user indicates a violation, the user shall notify the superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis for the parameter(s) violated within five (5) days and submit the results of the repeat analysis to the superintendent within 30 days after becoming aware of the violation. The user shall also provide written notice of the violation in accordance with § 18-213(1).

(4) Monitoring facilities. The control authority shall require to be provided and operation at the significant industrial user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the control authority may, when such location would be impractical or cause undue hardship on the significant industrial user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the significant industrial user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the control authority's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the control authority.

(5) Inspection and sampling. The control authority shall inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the control

authority or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The control authority, approval authority, and EPA shall have the right to set up on the significant industrial user's property such devices as are necessary for them to conduct sampling inspections, compliance monitoring and/or metering operations.

The control authority will establish those priority pollutants to be sampled, at the user's expense, at the prescribed minimum frequency shown in the significant industrial user's permit. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained in 40 CFR Part 136 as amended. The user shall submit monitoring reports, no more than 15 days after the month the sample was taken during, to the control authority of those priority pollutants to be sampled at the frequency prescribed in the industrial user permit. The results of any and all sampling of the user's discharge shall be reported, including sampling which exceeds the required minimum frequency. Failure to comply with these requirements may result in enforcement action as set forth in § 18-226 of this ordinance.

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 control authority, state, and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(6) Pretreatment. Significant industrial users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the control authority shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the control authority for review, and shall be acceptable to the control authority before construction of the facility. Plans and specifications for pretreatment facilities shall bear the stamp of a professional engineer registered in the State of Tennessee. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the control authority under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the control authority prior to the user's initiation of the changes.

All records relating to compliance with pretreatment standards shall be made available to officials of the control authority, EPA or state upon request.

(7) Connection permits. All users, other than significant industrial users, shall obtain a connection permit before connecting to or contributing to the POTW.

(8) Confidential information. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the control authority that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon request to the state and/or EPA for uses related to this ordinance, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state, any state agency, or the EPA in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the control authority as confidential, shall not be transmitted to any governmental agency or to the general public by the control authority until and unless a ten-day notification is given to the user.

(9) Public notification. In compliance with 40 CFR Part 403.8, the control authority shall annually publish in the local newspaper a list of industrial users which, during the previous twelve months, were in significant non-compliance with the pretreatment program requirements. Significant non-compliance is defined in § 18-202(45) of this ordinance. (Ord. #234, \_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-225. Building sewers and connections.** (1) Building sewer permit. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining a written building sewer permit from the control authority.

There shall be two (2) classes of building sewer permits:

- (a) Residential and commercial service, and
- (b) Service to establishments producing industrial wastes.

In either case, the customer or his agent shall make application on a special form furnished by the control authority. The permit application shall be supplemented by any plans, specifications or other information such as grease traps needed by restaurants, dining halls or any other type of eating establishments, considered pertinent in the judgment of the control authority. A permit and inspection fee as currently in effect for a residential or commercial

building sewer permit and for an industrial building sewer permit shall be paid to the control authority at the time the application is filed. Applicants for industrial building sewer permits shall provide a description of the constituents of the waste and shall provide a laboratory analysis of the waste, if possible, or of a similar waste if the applicant has another facility in operation with a similar waste.

Establishments which have or possibly should have grease traps will be inspected by the control authority. If, in the opinion of the control authority, the grease trap is found to be deficient, or no grease trap exists, a new grease trap shall be installed at the owner's expense. Plans, specifications and any other pertinent information shall be submitted for approval prior to replacing the existing grease trap.

(2) Connections. All costs and expense incident to the installation and connection of the building sewer shall be borne by the customer. The customer shall indemnify the control authority from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Connection to the public sewer shall be made only by a plumber duly authorized in writing by the superintendent's office.

A separate and independent building sewer shall be provided for every building; except where a building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(3) Installation. Old building sewers may be used in connection with new buildings only when they are found, on examination and testing by the superintendent, to meet all requirements of this ordinance.

New building sewers shall be at least four inches in diameter. Larger building sewers shall be used as necessary in order to carry the flow anticipated. New four-inch building sewers shall be laid on a grade of at least 1.0%. Larger new building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second. Slope and alignment of all building sewers shall be neat and regular. Pipe materials as specified below shall be used. Pipe shall conform to the appropriate ASTM Specification and shall be laid in conformation with the appropriate ASTM Specification or the WEF Manual of Practice, No. 9.

New building sewers shall be constructed only of

- (a) poly-vinyl-chloride pipe (Schedule 40) with rubber compression or solvent weld joints;
- (b) ductile iron pipes with push-on joints;
- (c) cast-iron soil pipe with push-on joints;
- (d) clay pipe with either bell and spigot or plain-end pipe joints;

or

- (e) concrete pipe.

Under no circumstances will cement mortar or leaded joints be acceptable. Each new connection to the public sewer must be made at a wye or service line stub out or, in the absence of any other provision, by means of a saddle of a type approved by the control authority attached to the sewer. No connection may be made by breaking into an existing sewer and inserting the service line. In addition, the inserting of a service line into an existing or new building sewer is strictly prohibited.

The new building sewer may be brought into the building below the basement floor when gravity flow from the building to the public sewer at a grade of one (1%) percent or more is possible. Where basement or floor levels are lower than the tops of adjacent manholes at the point of connection to the public sewer, customers shall not be connected by gravity flow. Pumps for basement service or floor levels lower than the tops of adjacent manholes shall be used in order to avoid possible flooding of basements in case of sewer line surcharge. The cost of the pump shall be borne by the customer. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastes carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the customer.

Cleanouts shall be installed on building sewers within five (5) feet of the outside wall of the structure and in one hundred (100) foot intervals thereafter.

No person shall make connection of roof down spouts, exterior foundation drains, areaway 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 the public sewer.

If during periodic system inspections the control authority locates a point of entry of inflow in an owner's building sewer, the owner shall repair the defect(s) at his own expense and furthermore notify the control authority upon completion so that an inspection can be made to determine the water tightness of the repair.

The connection of the building sewer into the public sewer shall conform to the rules and regulations the control authority may establish and the procedures set forth in appropriate specifications of the ASTM and the WEF 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 superintendent before installation.

The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. All connections shall be made under the supervision of the superintendent or their representative before acceptance.

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.

This subsection of the ordinance shall also include the replacement of an existing building sewer. (Ord. #234, \_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-226. Enforcement.** (1) Harmful contributions. The control authority may suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the control authority, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the control authority to violate any condition of its NPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge 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 control authority 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 control authority shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying 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 control authority within 5 days of the date of occurrence in accordance with § 18-213 of this ordinance.

(2) Revocation of permit. Any user who violates the following conditions of this ordinance, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures in this section of this ordinance:

- (a) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (b) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
- (c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (d) Violation of conditions of the permit.

(3) Notification of violation. Whenever the control authority finds that any user has violated or is violating this ordinance, the wastewater discharge permit, or any prohibition, limitation or requirements contained herein, the control authority may serve upon such person a written notice by registered mail stating the nature of the violation. Within 30 days of the date of the Notification of Violation, a plan for the satisfactory correction thereof shall be submitted to the control authority by the user. Submission of this plan in no way relieves the user of liability for any violation occurring before or after this notice of violation is issued.

(4) Administrative orders. If the user fails to correct a violation within 30 days of receiving notice of violation, the control authority shall issue an administrative order for the correction of this violation; provided however, that the user is not relieved of responsibility for unauthorized discharges which occur within the 30 day interval.

(5) Cease and desist order. When the control authority finds that a discharge of wastewater has taken place, in violation of prohibitions or limitations of this ordinance or the provisions of a wastewater discharge permit, the control authority may issue an order to cease and desist, and direct the user to comply forthwith within a specified time schedule, or to take appropriate remedial or preventative action in the event of a threatened violation.

(6) Fines and penalties. Any user who violates or fails to comply with any of the provisions of the Sewer Use Ordinance and/or industrial user discharge permit issued by the control authority shall be liable for an administrative fine of not more than one thousand dollars (\$1,000.00) per day as authorized by Tennessee Code Annotated, § 69-3-115 for each violation. The control authority shall have the power to impose such fines and penalties.

(7) Show cause hearing. The control authority may order any user who causes or allows an unauthorized discharge to enter the POTW or contributes to violation of this ordinance or wastewater permit to show cause before the control authority 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 control authority 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 control authority why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

The control authority council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the control authority to:

- (a) Issue in the name of the city council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (b) Take the evidence; or
- (c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city council for action thereon.

At any hearing held pursuant to this ordinance, testimony taken shall be under oath and may, at the request of either party, be recorded stenographically. The transcript, so recorded, will be made available to any

member of the public or any party to the hearing upon payment of the usual charges thereof.

After the control authority has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and/or these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(8) Legal action. If any person discharges sewage, industrial wastes or other wastes into the control authority's wastewater disposal system, contrary to the provisions of this SUO, federal or state pretreatment requirements, or any order of the control authority; or in any other way violates this USO or the applicable IU discharge permit the control authority attorney may commence an action for appropriate legal and/or equitable relief. (Ord. #234, \_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-227. Surcharges and reimbursements.** (1) Surcharges. Waters or wastes that are otherwise acceptable for discharge to sanitary sewers, but which exceed the strength of "normal wastewater" in accordance with § 18-223(4) of this ordinance shall be subject to surcharge as described in § 18-223(7) of this ordinance.

The city council may adjust or vary the various rates and/or formulas at its discretion.

(2) Enforcement action. If a violation of permit limits for compatible pollutants remains uncorrected 45 days after notification of violation, or if the discharge of excessive compatible pollutants interferes with the operation of the POTW, the control authority will have the option of disconnecting service and/or invoking fines as outlined in § 18-226 and § 18-228 of this ordinance.

After the city council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specific time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(3) Reimbursements. In the event that a discharge by an industrial user interferes with the POTW and/or requires efforts of the control authority beyond those normally associated with the operation of the POTW, the control authority may bill the industrial user for the cost of such additional effort. This shall include labor costs, enzymes, chemicals, cleaning supplies, and any other costs incurred by the control authority in association with the industrial

discharge. (Ord. #234, \_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**18-228. Penalty; costs.** (1) Civil penalties. Any user who is found to have violated an order of the city council or who willfully or negligently failed to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder, shall be fined not more than one thousand (\$1000) dollars as authorized by Tennessee Code Annotated, § 69-3-115 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 control authority may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this ordinance or the orders, rules, regulations and permits issued hereunder.

(2) Criminal penalties. 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 ordinance, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, or commits an act in violation of the law with criminal intent shall, upon conviction, be punished by a fine of not more than \$1000.00 per violation per day or imprisonment for not more than one year or both as authorized by Tennessee Code Annotated, § 69-3-115(c).

(3) Public nuisance. Any building sewer, tap, line, holding tank, or mechanism through which wastewater is routed into the POTW and which allows the discharge into the POTW of any wastewater containing a pollutant causing interference with the POTW, any toxic pollutant, any prohibited substance described in § 18-204, or any combination of the foregoing, as set forth and defined in this ordinance, is hereby declared a public nuisance. The judicial remedy or remedies for abating public nuisances shall be cumulative to all other administrative and judicial remedies set forth in this ordinance. (Ord. #234, \_\_\_\_\_, as replaced by Ord. #269, Oct. 1996, and Ord. #334, Dec. 2002)

**CHAPTER 3****SUPPLEMENTARY SEWER REGULATIONS<sup>1</sup>****SECTION**

- 18-301. Definitions.
- 18-302. Use of public sewers required.
- 18-303. Private sewage disposal.
- 18-304. Building sewers and connections.
- 18-305. Use of the public sewers.
- 18-306. Protection from damage.
- 18-307. Powers and authority of inspectors.
- 18-308. Violations.

**18-301. Definitions.** Unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows:

(1) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C. expressed in milligrams per liter.

(2) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(3) "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(4) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(5) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(6) "Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

(7) "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

(8) "Person" shall mean any individual, firm, company, association, society, corporation, or group.

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

Cross connections: title 18.

(9) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(10) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

(11) "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and controlled by public authority.

(12) "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

(13) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

(14) "Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

(15) "Sewage works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

(16) "Sewer" shall mean a pipe or conduit for carrying sewage.

(17) "Shall" is mandatory; "may" is permissive.

(18) "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

(19) "Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(20) "Superintendent" shall mean the superintendent of the sewage works and/or of water pollution control of the city, or his authorized deputy, agent, or representative.

(21) "Suspended solids" shall mean solids that are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(22) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently. (1976 Code, § 13-201)

**18-302. 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, 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, any sewage or other polluted waters,

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, within ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the property line. (1976 Code, § 13-202)

**18-303. Private sewage disposal.** The disposal of sewage by means other than the use of the sanitary sewage system shall be in accordance with local and state laws. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the sanitary sewage system is not available. (1976 Code, § 13-203)

**18-304. 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 superintendent.

(2) There shall be two (2) 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 city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent.

(3) All costs and expenses incident 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 where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(5) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, 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 codes 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 A.S.T.M. and W.P.C.F. 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, the 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 connections of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(9) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. 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 superintendent before installation.

(10) The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(11) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (1976 Code, § 13-204)

**18-305. Use of the public sewers.** (1) No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(2) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Tennessee Stream Pollution Control Board. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Tennessee Stream Pollution Control Board, to a storm sewer, or natural outlet.

(3) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(4) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, or public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as to quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than one hundred and fifty degrees (150°)F (65°)C.

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32°) and one hundred fifty degrees (150°)F (0 and 65°C).

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such a degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent and/or the Division of Sanitary Engineering, Tennessee Department of Health, for such materials.

(f) Any waters or wastes containing phenols or other taste-or odor-producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharges to the receiving waters.

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(h) Any waters or wastes having a pH in excess of 9.5.

(i) Materials which exert or cause:

(i) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(ii) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(iii) Unusual BOD, (above 300 mg/l), chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(iv) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(k) Waters or wastes containing suspended solids in excess of 300 mg/l.

(5) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in the preceding subsection, and which in the judgment of the superintendent, and/or the Division of Sanitary Engineering, Tennessee Department of Health, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

(a) Reject the wastes;

- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of subsection (10) in this section.

If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent, and the Tennessee Department of Health, and subject to the requirements of all applicable codes, ordinances, and laws.

(6) Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be so located as to be readily and easily accessible for cleaning and inspection.

(7) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(8) When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(9) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the downstream manhole in the public sewer nearest to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses

are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

(10) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefore, by the industrial concern. (1976 Code, § 13-205)

**18-306. Protection from damage.** No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (1976 Code, § 13-206)

**18-307. Powers and authority of inspectors.** (1) The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries, beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(2) While performing the necessary work on private properties referred to in the preceding subsection, the superintendent or duly authorized employees of the municipality shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 18-305(8).

(3) The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repairing, and maintenance any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (1976 Code, § 13-207)

**18-308. Violations.** (1) Any person found to be violating any provision of this chapter except § 18-306 shall be served by the city with a written notice

stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(2) Any person who shall continue any violation beyond the time limit provided for in the preceding subsection shall be guilty of a misdemeanor, and on conviction thereof may be fined under the general penalty clause for this code.

(3) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation. (1976 Code, § 13-208)

## CHAPTER 4

### SEWAGE AND HUMAN EXCRETA DISPOSAL<sup>1</sup>

#### SECTION

- 18-401. Definitions.
- 18-402. Places required to have sanitary disposal methods.
- 18-403. When a connection to the public sewer is required.
- 18-404. When a septic tank shall be used.
- 18-405. Registration and records of septic tank cleaners, etc.
- 18-406. Use of pit privy or other method of disposal.
- 18-407. Approval and permit required for septic tanks, privies, etc.
- 18-408. Owner to provide disposal facilities.
- 18-409. Occupant to maintain disposal facilities.
- 18-410. Only specified methods of disposal to be used.
- 18-411. Discharge into watercourses restricted.
- 18-412. Pollution of ground water prohibited.
- 18-413. Enforcement of chapter.
- 18-414. Carnivals, circuses, etc.
- 18-415. Violations.

**18-401. Definitions.** The following definitions shall apply in the interpretation of this chapter:

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred (200) feet of any boundary of said property measured along the shortest available right-of-way.

(2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(3) "Human excreta." The bowel and kidney discharges of human beings.

(4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks

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<sup>1</sup>Municipal code reference  
Plumbing code: title 12, chapter 2.

and Disposal Fields." A minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five (5) feet. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(7) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1976 Code, § 8-301)

**18-402. Places required to have sanitary disposal methods.** Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1976 Code, § 8-302)

**18-403. When a connection to the public sewer is required.** Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1976 Code, § 8-303)

**18-404. When a septic tank shall be used.** Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1976 Code, § 8-304)

**18-405. Registration and records of septic tank cleaners, etc.**

Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1976 Code, § 8-305)

**18-406. Use of pit privy or other method of disposal.**

Wherever a sanitary method of human excreta disposal is required under § 18-402 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1976 Code, § 8-306)

**18-407. Approval and permit required for septic tanks, privies, etc.**

Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1976 Code, § 8-307)

**18-408. Owner to provide disposal facilities.**

It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-402, or the agent of the owner to provide such facilities. (1976 Code, § 8-308)

**18-409. Occupant to maintain disposal facilities.**

It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1976 Code, § 8-309)

**18-410. Only specified methods of disposal to be used.**

No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1976 Code, § 8-310)

**18-411. Discharge into watercourses restricted.**

No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1976 Code, § 8-311)

**18-412. Pollution of ground water prohibited.**

No sewage, effluent from a septic tank, sewage treatment plant, or discharges from any plumbing

facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1976 Code, § 8-312)

**18-413. Enforcement of chapter.** It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace. Failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction. (1976 Code, § 8-313)

**18-414. Carnivals, circuses, etc.** Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1976 Code, § 8-314)

**18-415. Violations.** Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1976 Code, § 8-315)

## CHAPTER 5

### SURPLUS WATER RATES

#### SECTION

- 18-501. Rate established.
- 18-502. Notice required to change rate.
- 18-503. City to recover amount.
- 18-504. Meters-billing.

**18-501. Rate established.** From and after November 1, 1980, the DeKalb Utility District may continue to take from the city's water system the city's surplus potable treated water at said locations, and as metered, from the city's system at the rate of one dollar and twenty-five cents (\$1.25) per one thousand (1,000) gallons, which amount so furnished shall be subject to the limitation of the capacity of the system after first supplying the needs of the city for its own use and that of its other customers as set forth above. (Ord. #150, Oct. 1980)

**18-502. Notice required to change rate.** The rate of one dollar and twenty-five cents (\$1.25) shall remain in force and effect until such time as the City of Smithville shall give notice to the DeKalb Utility District of a change of rate or a limitation of the amount of water it can furnish the DeKalb Utility District without impairing its present usefulness and capacity, as aforesaid.

Should a change or modification in this rate, or a limitation as to the amount of surplus water the city can furnish the district, become necessary, as determined by the City of Smithville, in meeting its obligations to its said customers and residents, or in operating its system, as provided by law, the City of Smithville will give the DeKalb Utility District thirty (30) days' notice in advance of such change or modification in rates or limitation as to the gallonage of surplusage water the city will furnish to the DeKalb Utility District. In case such determination is made by the city, it will take appropriate action to enforce this provision. (Ord. #150, Oct. 1980)

**18-503. City to recover amount.** The fixing of this rate is prospective in this nature, and the rate of \$1.25 per 1,000 gallons herein fixed to begin on November 1, 1980, shall not, in anywise, prejudice or affect the rights of the City of Smithville to continue to seek and recover the amount claimed by the city, or allowed by the court, for water heretofore furnished by the city to the district and which is now, and has been since October 31, 1978, in dispute. (Ord. #150, Oct. 1980)

**18-504. Meters-billing.** All of the meters through which the surplus water passes from the city's system to the DeKalb Utility District's system shall

be read each month, the amount due and owing by the district to the city then calculated, and a bill therefor submitted by the city to the district. The district shall pay the amount so billed within seven (7) days from and after the bill is mailed by the city to the district. Should the district neglect or fail to pay the bill within said allotted time, the Water Department of the City of Smithville will cut off and discontinue water services to the district until such bill is paid and satisfied in full. (Ord. #150, Oct. 1980)

**CHAPTER 6****CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.**<sup>1</sup>**SECTION**

- 18-601. Definitions.
- 18-602. Standards.
- 18-603. Construction, operation and supervision.
- 18-604. Statement required.
- 18-605. Inspections required.
- 18-606. Right of entry for inspections.
- 18-607. Correction of existing violations.
- 18-608. Use of protective devices.
- 18-609. Unpotable water to be labeled.
- 18-610. Violations.

**18-601. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the City of Smithville for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.

(2) "Cross-connection." Any physical arrangement whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "By-pass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Inter-connection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual firm or association, and any municipal or private corporation

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<sup>1</sup>Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

organized or existing under the laws of this or any other state or country. (Ord. #114, April 1977)

**18-602. Standards.** The Smithville Public Water System is to comply with Tennessee Code Annotated, §§ 68-221-101 through 68-221-104 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross-connection, auxiliary intakes, by-passes, and inter-connections, and establish an effective, on-going program to control these undesirable water uses. (Ord. #114, April 1977)

**18-603. Construction, operation and supervision.** It shall be unlawful for any person to cause a cross-connection, auxiliary intake, by-pass, or inter-connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health, and the operation of such cross-connection, auxiliary intake, by-pass or inter-connection is at all times under the direct supervision of the superintendent of waterworks of the City of Smithville. (Ord. #114, April 1977)

**18-604. Statement required.** Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of waterworks of the City of Smithville a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or inter-connections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or inter-connection will be permitted upon the premises. (Ord. #114, April 1977)

**18-605. Inspections required.** It shall be the duty of the Smithville Public Water Supply to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be established by the superintendent of waterworks of the City of Smithville and as approved by the Tennessee Department of Health. (Ord. #114, April 1977)

**18-606. Right of entry for inspections.** The superintendent of waterworks or authorized representative shall have the right to enter at any reasonable time any property served by a connection to the Smithville Public Water Supply for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, by-passes, or inter-connections. On request, the owner, lessee, or occupant of any property so served shall furnish

to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (Ord. #114, April 1977)

**18-607. Correction of existing violations.** Any person who now has cross-connections, auxiliary intakes, by-passes, or inter-connections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the superintendent of waterworks of the City of Smithville. (Ord. #114, April 1977)

**18-608. Use of protective devices.** Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation.
- (2) That the owner and/or occupant of the premises cannot or is not willing to demonstrate to the official in charge of the system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply.
- (3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.
- (4) There is a likelihood that protective measures may be subverted, altered, or disconnected.

The superintendent of waterworks of the City of Smithville, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the superintendent of waterworks of the City of Smithville prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health. The installation shall be at the expense of the owner or occupant of the premises.

The department shall have this right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the superintendent of waterworks, or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where only one unit has been installed and the continuance

of service is critical, the superintendent of waterworks shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly and the expense of such repairs shall be borne by the owner or occupant of the premises. These repairs shall be made by qualified personnel, acceptable to the superintendent of waterworks of the City of Smithville. (Ord. #114, April 1977)

**18-609. Unpotable water to be labeled.** The potable water supply made available on the properties served by the public water supply be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE  
FOR DRINKING

Minimum acceptable sign shall have black letters one-inch high located on a red background. (Ord. #114, April 1977)

**18-610. Violations.** Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100), and each day of continued violation after conviction shall constitute a separate offense. In addition to the foregoing fines and penalties, the superintendent of waterworks of the City of Smithville 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. (Ord. #114, April 1977)

**TITLE 19**

**ELECTRICITY<sup>1</sup> AND GAS**

**CHAPTER**

**1. GAS.**

**CHAPTER 1**

**GAS<sup>2</sup>**

**SECTION**

19-101. To be furnished under franchise.

**19-101. To be furnished under franchise.** Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.<sup>3</sup> (1976 Code, § 13-401, modified)

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<sup>1</sup>Municipal code reference  
Electric power board: title 2, chapter 1.

<sup>2</sup>Municipal code reference  
Gas code: title 12.

<sup>3</sup>The agreements are of record in the office of the city recorder.

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

1. JOINT CIVIL DEFENSE ORGANIZATION.
2. LITTER CONTROL LAW.
3. FAIR HOUSING REGULATIONS.
4. TELEPHONE SYSTEM.
5. TITLE VI COMPLIANCE MANUAL.
6. PROHIBITION AGAINST USING TOBACCO PRODUCTS IN PUBLIC FACILITIES.

**CHAPTER 1**

**JOINT CIVIL DEFENSE ORGANIZATION**

**SECTION**

- 20-101. DeKalb County Civil Defense Organization created.
- 20-102. Authority and responsibilities.
- 20-103. Office of director, his authority and responsibility.
- 20-104. DeKalb County Civil Defense Corps. created.
- 20-105. No municipal or private liability.
- 20-106. Expenses of civil defense.

**20-101. DeKalb County Civil Defense Organization created.** There is hereby created the DeKalb County Civil Defense Organization, which shall be a joint operation of the City of Smithville and the County of DeKalb for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the corporate limits of DeKalb County, shall be considered as a total part of the county-wide civil defense emergency resources and when such agencies operate out of its corporate limits it shall be at the direction of, subordinate to, and as a part of the DeKalb County civil defense. (1976 Code, § 1-1101)

**20-102. Authority and responsibilities.** (1) Authority. In accordance with federal and state enactments of law, the DeKalb County Civil Defense Organization is hereby authorized to assist the regular government of the county and governments of all political subdivisions therein, as may be necessary due to enemy caused emergency or natural disasters, including but not limited to: storms, floods, fires, explosions, tornadoes, hurricanes, drought, or peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of DeKalb County, the DeKalb County Civil Defense Organization is hereby designated the official agency to assist regular forces in time of said emergencies.

(2) Responsibilities. The DeKalb County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in DeKalb County, to establish and co-ordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (1976 Code, § 1-1102)

**20-103. Office of director, his authority and responsibility.**

(1) Primary authority. (a) The office of the director of civil defense is hereby created. The director shall have the authority to request the declaration of the existence of an emergency by the mayor and county judge or either or by higher authority as appropriate.

(b) The director shall have overall responsibility for the preparation of all plans and recruitment and training of personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state CD office.

(c) The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purposes of this chapter, subject to the approval of the chief executive officers of the city and county.

(2) Responsibility of the director. The director shall be responsible to the chief executive officers of the city and county for the execution of the authorities, duties, and responsibilities of the DeKalb County Civil Defense Organization, for the preparation of all plans and administrative regulations, and for recruitment and training of personnel. (1976 Code, § 1-1103)

**20-104. DeKalb County Civil Defense Corps created.** The DeKalb County Civil Defense Corps is hereby created. The corps shall be under the direction of the director of civil defense and his staff members with delegated authority. It shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the civil defense emergency plan. (1976 Code, § 1-1104)

**20-105. No municipal or private liability.** The duties prescribed in this document are an exercise by the city and county of their governmental functions for the protection of the public peace, health, and safety and neither the City of Smithville nor DeKalb County, the agents and representatives of said city and county nor any individual, receiver, firm, partnership, corporation, association or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this document shall be liable for any damage sustained to person or property as the result of said activity. Any person owning or controlling real estate or other premises for the purpose of sheltering persons during an actual, impending, or practice enemy attack, shall together with his successors in interest, if any, not be civilly liable for the death

of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission or for loss of, or damage to, the property of such person. (1976 Code, § 1-1105)

**20-106. Expenses of civil defense.** No person shall have the right to expend any public funds of the city or county in carrying out any civil defense activities authorized by this document without prior approval by the governing bodies of the city and/or county or both; nor shall any person have any right to bind the city or county by contract, agreement, or otherwise without prior and specific approval by the governing body of the city and/or county, or both. The civil defense director shall disburse such monies as may be provided annually by appropriation of the city and county for the operation of the civil defense organization. Control of disbursements will be as prescribed by agreement between the treasurers of the city and county. He shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the city and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the City of Smithville or DeKalb County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise, when available, or state contributions, and is further authorized to accept contributions to the civil defense organization from individuals and other organizations, such funds becoming liable for audit by the city and county. (1976 Code, § 1-1106)

## CHAPTER 2

### LITTER CONTROL LAW

#### SECTION

- 20-201. Short title.
- 20-202. Definitions.
- 20-203. Throwing, dumping, or depositing litter.
- 20-204. Evidence against driver of motor vehicle.
- 20-205. Objects bearing name--evidence.
- 20-206. Penalty for violation of litter control law.
- 20-207. Prosecution by peace officer or private citizen.
- 20-208. Report of littering from motor vehicle.

**20-201. Short title.** Sections 20-201 through 20-208 inclusive, of this chapter shall be known and may be cited as "The Litter Control Law of 1979." (Ord. #137, Oct. 1979)

**20-202. Definitions.** As used in this chapter unless the context otherwise requires:

- (1) "Garbage" includes putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- (2) "Refuse" includes all putrescible and nonputrescible solid wastes.
- (3) "Rubbish" includes nonputrescible solid wastes consisting of both combustible and noncombustible wastes.
- (4) "Litter" includes garbage, refuse, rubbish and all other waste materials. (Ord. #137, Oct. 1979)

**20-203. Throwing, dumping, or depositing litter.** A person shall not throw, dump, deposit or cause to be thrown, dumped or deposited litter on property owned by another person without permission of the owner or occupant of such property or on any public highway, street or road, upon public parks or recreation areas, or upon any other public property except that property designated for that use. (Ord. #137, Oct. 1979)

**20-204. Evidence against driver of motor vehicle.** If the throwing, dumping or depositing of litter was done from a motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, dumping or depositing was done by the driver of the motor vehicle. (Ord. #137, Oct. 1979)

**20-205. Objects bearing name--evidence.** If an object of litter is discovered on another's property without his permission, on any public highway, street or road, upon public parks or recreation areas, or upon any other public or private property except that property designated for that use bearing a

person's name, it shall be prima facie evidence that the person whose name appears on the object threw, dumped, deposited, or caused it to be thrown, dumped or deposited there. (Ord. #137, Oct. 1979)

**20-206. Penalty for violation of litter control law.** A person who violates a provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) and not more than fifty dollars (\$50.00). (Ord. #137, Oct. 1979)

**20-207. Prosecution by peace officer or private citizen.** Prosecution for a violation of §§ 20-201 -- 20-207 may be initiated by a peace officer who witnessed an offense in violation of §§ 20-201 -- 20-207 or who discovered an article bearing a persons' name on the property of another, or any public highway, street, or road, upon a public park or recreation area, or upon any other public or private property except that designated for that use, or by any private citizen, who witnessed an offense or discovered incriminating evidence, who is willing to make the initial charge and testify for the city. (Ord. #137, Oct. 1979)

**20-208. Report of littering from motor vehicle.** Any person whether or not such person is a citizen of the State of Tennessee, who shall witness the throwing, dumping, or depositing of litter from a motor vehicle onto any public highway, street or road, onto another's property without the owner's permission, onto public park or public recreation lands, or onto any other public property except such as is designated for the throwing, dumping or depositing of litter may report the date and time of day of the littering and the license plate registration number and state of registration to any state or local law enforcement authority. The license plate registration number as recorded shall constitute prima facie evidence that the littering was done by the person to whom such motor vehicle is registered. Nothing in this section shall be construed to modify or change the burden of the city to prove the defendant guilty as provided by law. Any person so reporting a violation shall be required to appear as a witness in any prosecutions resulting therefrom. (Ord. #137, Oct. 1979)

## CHAPTER 3

### FAIR HOUSING REGULATIONS

#### SECTION

- 20-301. Policy.
- 20-302. Definitions.
- 20-303. Unlawful practice.
- 20-304. Discrimination in the sale or rental of housing.
- 20-305. Discrimination in the financing of housing.
- 20-306. Discrimination in the provision of brokerage services.
- 20-307. Exemption.
- 20-308. Administration.
- 20-309. Education and conciliation.
- 20-310. Enforcement.
- 20-311. Investigations; subpoenas; giving of evidence.
- 20-312. Enforcement by private persons.

**20-301. Policy.** It is the policy of the City of Smithville to provide, within constitutional limitations, for fair housing throughout the community. (Ord. #226, Nov. 1989)

**20-302. Definitions.** (1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(2) "Family" includes a single individual.

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

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(5) "Discriminatory housing practice" means an act that is unlawful under §§ 20-304, 20-305, or 20-306. (Ord. #226, Nov. 1989)

**20-303. Unlawful practice.** Subject to the provisions of §§ 20-303(2) and 20-307, the prohibitions against discrimination in the sale or rental of housing set forth in § 20-304 shall apply to:

(1) All dwellings except as exempted by subsection (2).

(2) Nothing in § 20-304 shall apply to:

(a) Any single-family house sold or rented by an owner: Provided that such private individual owner does not own more than

three such single-family houses at any one time: Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further that the sale or rental of any such single-family house shall be accepted from the application of this title only if such house is sold or rented

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

(ii) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 20-304

(iii) Of this chapter, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

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

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

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

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

(c) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families. (Ord. #226, Nov. 1989)

**20-304. Discrimination in the sale or rental of housing.** As made applicable by § 20-303 and except as exempted by §§ 20-303(2) and 20-307 it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make 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, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation or discrimination.

(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. #226, Nov. 1989)

**20-305. Discrimination in the financing of housing.** It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consist in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 20-303(2). (Ord. #226, Nov. 1989)

**20-306. Discrimination in the provision of brokerage services.** It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms of conditions of such access,

membership, or participation, on account of race, color, religion, or national origin. (Ord. #226, Nov. 1989)

**20-307. Exemption.** Nothing in this chapter shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. #226, Nov. 1989)

**20-308. Administration.** (1) The authority and responsibility for administering this act shall be in the Mayor of the City of Smithville.

(2) The mayor may delegate any of these functions, duties, and powers to employees of the community or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this chapter. The mayor shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the community, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the mayor to further such purposes. (Ord. #226, Nov. 1989)

**20-309. Education and conciliation.** Immediately after the enactment of this ordinance, the mayor shall commence such educational and conciliatory activities as will further the purposes of this chapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advise to work out programs of voluntary compliance and of enforcement. (Ord. #226, Nov. 1989)

**20-310. Enforcement.** (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor. Complaints shall be

in writing and shall contain such information and be in such form as the mayor requires. Upon receipt of such a complaint, the mayor shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (3) the mayor shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the mayor decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by information methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the mayor who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

(2) A complaint under subsection (1) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the mayor, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(3) If within thirty days after a complaint is filed with the mayor, the mayor has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The mayor will assist in this filing.

(4) If the mayor has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complaint.

(6) Whenever an action filed by an individual shall come to trial, the mayor shall immediately terminate all efforts to obtain voluntary compliance. (Ord. #226, Nov. 1989)

**20-311. Investigations; subpoenas; giving of evidence.** In conducting an investigation, the mayor shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the mayor first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court of the district in which the investigation is taking place. The mayor may administer oaths.

(2) Upon written application to the mayor, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the mayor to the same extent and subject to the same limitations as subpoenas issued by the mayor himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(3) Witnesses summoned by subpoena of the mayor shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to the witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(4) Within five days after service of a subpoena upon any person, such person may petition the mayor to revoke or modify the subpoena. The mayor shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy or refusal to obey a subpoena, the mayor or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the mayor shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the mayor, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the mayor pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other

documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(7) The city attorney shall conduct all litigation in which the mayor participates as a party or as amicus pursuant to this chapter. (Ord. #226, Nov. 1989)

**20-312. Enforcement by private persons.** (1) The rights granted by §§ 20-303, 20-304, 20-305, and 20-306 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought to this section or § 20-310(4) from time to time before bringing it to trial or renting dwellings; or

(2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(a) participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 15 (a); or

(b) affording another person or class of persons opportunity or protection so to participate, or

(3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 15 (a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and, if bodily injury results, shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and, if death results, shall be subject to imprisonment for any term of years or for life. (Ord. #226, Nov. 1989)

CHAPTER 4

**TELEPHONE SYSTEM**

**SECTION**

20-401. To be furnished under franchise.

**20-401. To be furnished under franchise.** Telephone services shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.<sup>1</sup> The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.

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<sup>1</sup>The agreements are of record in the office of the city recorder.

CHAPTER 5

**TITLE VI COMPLIANCE MANUAL**

**SECTION**

20-501. Title VI Compliance Manual adopted.

20-502. Policy statement.

**20-501. Title VI Compliance Manual adopted.**<sup>1</sup> The Title VI Compliance Manual for the City of Smithville is hereby adopted in its entirety by reference. (as added by Ord. #332, Dec. 2002)

**20-502. Policy statement.** The following statement shall be deemed as the City of Smithville's Title VI policy statement: "It is the policy of the City of Smithville to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (as added by Ord. #332, Dec. 2002)

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<sup>1</sup>The Title VI Compliance Manual is of record in the office of the city recorder.

## CHAPTER 6

### PROHIBITION AGAINST USING TOBACCO PRODUCTS IN PUBLIC FACILITIES

#### SECTION

- 20-601. Purpose.
- 20-602. Definitions.
- 20-603. Prohibitions.
- 20-604. Designation of smoking and non-smoking areas.
- 20-605. Posting of signs.
- 20-606. Exceptions.
- 20-607. Enforcement and appeal.
- 20-608. Violation.

**20-601. Purpose.** The purpose of this chapter is to prohibit the smoking of tobacco, or any weed or plant, in designated non-smoking areas of public facilities. (as added by Ord. #337, Feb. 2003)

**20-602. Definitions.** For the purposes of this chapter, the following words shall have the meaning as stated:

(1) "Smoke" or "smoking" means the carrying of a lighted pipe, cigar, cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind.

(2) "Public facility" means any enclosed area or facility which is owned, operated, leased or under the control of the City of Smithville to which the public is invited or in which the public is permitted; including, but not limited to theatres, waiting rooms, reception areas, education facilities, and areas in which city employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, and conference rooms.

(3) "Private office" means any enclosed room normally occupied by two (2) or fewer individuals and not generally open to the public. (as added by Ord. #337, Feb. 2003)

**20-603. Prohibitions.** No person shall, in a public facility, smoke in any designated non-smoking area. (as added by Ord. #337, Feb. 2003)

**20-604. Designation of smoking and non-smoking areas.** (1) Non-smoking areas may be designated in public facilities by the person in charge.

(2) Smoking areas may be designated in public facilities by the person in charge; except in public conveyances, theaters, auditoriums, public assembly rooms, meeting rooms, rest rooms, elevators, libraries, museums or galleries which are open to the public or any other place where smoking is prohibited by the fire marshall or by other law, ordinance or regulation. In areas where

smoking is permitted, existing physical barriers and ventilation systems shall be used to minimize the effect of smoke in adjacent non-smoking areas. It shall be the responsibility of the mayor to provide smoke-free areas for non-smokers within existing facilities to the maximum extent possible. (as added by Ord. #337, Feb. 2003)

**20-605. Posting of signs.** Signs which designate smoking or non-smoking areas established by this chapter shall be clearly, sufficiently, and conspicuously posted in every room, building, or other place so covered by this chapter. The manner of such posting including the wording, size, color, design, and place of posting whether on the walls, doors, tables, counters, stands or elsewhere shall be at the discretion of the person having control of such room, building, or other place so long as clarity, sufficiency, and conspicuousness are apparent in communicating the intent of this chapter. (as added by Ord. #337, Feb. 2003)

**20-606. Exceptions.** Notwithstanding any other provision of this chapter, non-smoking areas shall not be required in private offices, meeting and assembly rooms rented to guests, areas and rooms while in use for private social functions, and jails. (as added by Ord. #337, Feb. 2003)

**20-607. Enforcement and appeal.** (1) The person in charge of any facility shall post or cause to be posted all "No Smoking" signs required by this chapter. Employees working in such facility shall be required to orally inform persons violating this chapter of the provision thereof. The duty to inform such violator shall arise when such employee becomes aware of such violation.

(2) It shall be the responsibility of the mayor to disseminate information concerning the provisions of this chapter to employees.

(3) The person in charge of any facility subject to this chapter may apply to the board of mayor and aldermen for an exemption or modification of the provisions of this chapter due to unique or unusual circumstances or conditions. (as added by Ord. #337, Feb. 2003)

**20-608. Violation.** Any person violating any provision of this chapter shall be guilty of an offense and upon conviction shall pay a penalty of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense. Each occurrence shall constitute a separate offense. (as added by Ord. #337, Feb. 2003)

**ORDINANCE NO. 270****AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF SMITHVILLE TENNESSEE.**

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

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

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

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

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

**Section 2. Ordinances repealed.** All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the city 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 city code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed,

direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

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

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

When a civil penalty is imposed on any person for violating any provision of the city code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum

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<sup>1</sup>State law reference

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

as may be prescribed for each day's hard labor, has fully discharged said penalty.

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

**Section 6. Severability clause.** Each section, subsection, paragraph, sentence, and clause of the city 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 city 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 city code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the city code and revisions thereto. After adoption of the city 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 city 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 city code will contain references to all ordinances responsible for current provisions. One copy of the city 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 city 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 city 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 city code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, October 21, 1996.

Passed 2nd reading, November 4, 1996.

Cecil Burger  
Mayor

Sumner Vandenberg  
Recorder