

**THE
SOUTH PITTSBURG
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

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CITY OF SOUTH PITTSBURG, TENNESSEE

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PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

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

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

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

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

Section 8. Style publication and passage of ordinances. The style of all city ordinances shall be: "Be it ordained by the board of mayor and commissioners of the City of South Pittsburg." Copies of the text of every ordinance shall be made available to the public during every meeting in which the ordinance is subject to a reading.

Each ordinance shall be read and passed on two (2) separate days before the same is operative. Each ordinance shall receive a public hearing prior to its second and final reading. [As replaced by Priv. Acts 2014, ch. 64]

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

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

CHAPTER 1

BOARD OF MAYOR AND COMMISSIONERS²

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Compensation of mayor and commissioners.

1-101. Time and place of regular meetings. The board of mayor and commissioners shall hold regular monthly meetings at a consistent time set by ordinance by the board of mayor and commissioners on the second Tuesday of each month at 6:00 P.M. at the city hall. (2005 Code, § 1-101, modified)

1-102. Order of business. The city administrator shall furnish the board of mayor and commissioners a copy of the agenda for all regular meetings, including old business and new business no later than the Thursday next

¹Charter 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, and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.
Zoning: title 14.

²Charter references

Election: art. 2, § 1.
Meetings: art. 2, § 7
Qualifications and compensation: art. 2, § 2.
Vacancy in office of mayor or commissioner: art. 2, § 5.

preceding said regular meeting. At each meeting of the board of mayor and commissioners, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction.
- (4) Comments from citizens.
- (5) Communications from the mayor.
- (6) Reports from commissioners and other officers, committees, and boards.
- (7) Old business.
- (8) New business (a minimum five (5) day notice shall be required for all items to come before regular meetings of the board with the exception of those items deemed to be an emergency).
- (9) Adjournment. (2005 Code, § 1-102, modified)

1-103. General rules of order. The rules of order and parliamentary procedure contained in *Robert's Rules of Order, Newly Revised*, shall govern the transaction of business by and before the board of mayor and commissioners at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (2005 Code, § 1-103)

1-104. Compensation of mayor and commissioners. The compensation of the mayor shall be six hundred dollars (\$600.00) per month and the compensation of each commissioner shall be four hundred dollars (\$400.00) per month.¹ (Ord. #730, May 2012)

¹Charter references

Legislative department: art. 2, § 2.

CHAPTER 2

MAYOR¹

SECTION

1-201. Executes city's contracts.

1-202. Civil emergency powers.

1-201. Executes city's contracts. The mayor shall execute all contracts as authorized by the board of mayor and commissioners. (2005 Code, § 1-201)

1-202. Civil emergency powers. Whenever the mayor proclaims a civil emergency pursuant to *Tennessee Code Annotated*, §§ 38-9-101, *et seq.*, any person violating the provisions of orders issued by the mayor, including curfew orders and other restrictive orders as set forth in the above statute, shall be guilty of a misdemeanor. (2005 Code, § 1-202)

¹Charter references

Composition, election and tenure: art. 2, § 1.

Mayor and recorder to sign warrants, etc.: art. 3, § 11.

Powers and duties: art. 2, § 4.

Qualifications and compensation: art. 2, § 2.

Vacancy in office: art. 2, § 5.

CHAPTER 3

RECORDER¹

SECTION

- 1-301. To be bonded.
- 1-302. To keep minutes, etc.
- 1-303. Recorder's duties, etc.

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of mayor and commissioners. (2005 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and commissioners and shall preserve the original copy of all ordinances in a separate ordinance book. (2005 Code, § 1-302)

1-303. Recorder's duties, etc. The city recorder shall be the general accountant of the city and as such it shall be the city recorder's duty to receive and preserve in his office all accounts, books, vouchers, papers, etc., relating to the accounts and contracts of the city, its debts, revenues and other fiscal affairs. He shall also have custody of, and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the city shall provide. (2005 Code, § 1-303)

¹Charter references

Appointment: art. 3, § 7.

Duties: art. 3, § 9.

Recorder to be general accountant: art. 3, § 8.

Recorder to be property custodian, record minutes and keep all city records: art. 3, § 12.

Recorder to collect taxes: art. 3, § 10.

Recorder and mayor to sign warrants, etc.: art. 3, § 11.

CHAPTER 4

CODE OF ETHICS

SECTION

- 1-401. Applicability.
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in non-voting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations and penalty.

1-401. Applicability. This chapter is the code of ethics for personnel of the City of South Pittsburg. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City of South Pittsburg. The words "City of South Pittsburg" include these separate entities. (2005 Code, § 1-401)

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

- (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests;
- (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
- (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (2005 Code, § 1-402)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the

meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure. (2005 Code, § 1-403)

1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (2005 Code, § 1-404)

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (2005 Code, § 1-405)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (2005 Code, § 1-406)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or

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

lease that is determine by the governing body to be in the best interests of the City of South Pittsburg. (2005 Code, § 1-407)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the City of South Pittsburg. (2005 Code, § 1-408)

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonable inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the City of South Pittsburg's charter or any ordinance or policy. (2005 Code, § 1-409)

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

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (2005 Code, § 1-411)

1-411. Violations and penalty. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the City of South Pittsburg's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (2005 Code, § 1-411)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. PARK AND RECREATION ADVISORY BOARD.
2. BOARD MEMBERS ATTENDANCE POLICY.

CHAPTER 1

PARK AND RECREATION ADVISORY BOARD

SECTION

- 2-101. Creation and membership.
- 2-102. Powers and duties.

2-101. Creation and membership. Pursuant to the provisions of *Tennessee Code Annotated*, chapter 24 of title 11, there is hereby created a Park and Recreation Board consisting of five (5) members, at least two (2) of whom may be members of the local school staff. All members of such board shall be appointed by the mayor to serve for terms of five (5) years or until their successors are appointed except that the members first appointed shall be appointed for such terms that the term of one (1) member shall expire annually thereafter. The members of such board shall serve without pay. Any vacancy occurring otherwise than by expiration of a term shall be filled only for the unexpired term and all appointments shall be by the mayor. (2005 Code, § 2-101)

2-102. Powers and duties. (1) The board shall act in an advisory capacity only (non-administrative) to the parks and recreation department, serving as representatives of the citizenry, in all non-budgetary matters pertaining to the park and recreation facilities and programs of the city. Such advisory duties shall include the recommendation of new recreational site locations, improvements, and operational personnel, recreational program content, rules, regulations, schedules, and similar controls pertaining to usage of public recreational facilities of the city and shall be made by way of the recreation director and the city administrator.

(2) The committee may solicit, and acquire, on behalf of the town, by gift or donation, any property for public recreation, provided that the solicitation of the donation of real property shall have the prior concurrence of the board of mayor and commissioners. Any gifts or donations acquired, except real property, shall be transferred to the parks and recreation department and shall become the property of the city. Any tentative donation of real property shall be

processed in the normal manner for acquiring city property and, if accepted, title thereto shall be taken in the name of the city.

(3) The parks and recreation board shall keep records and accounts of all activities of the board and shall make reports through the recreation director to the city administrator whenever requested to do so.

(4) In exercising its powers and performing its duties as specified in this chapter, the board shall act through a majority of its members and the chairman of the committee is requested to sign all papers and documents requiring the signature of the parks and recreation advisory board.

(5) No member of the board shall participate in the decision of any matter coming before the board in which such member has a monetary interest either directly or indirectly.

(6) Nothing in this chapter shall be construed as authorizing or empowering the parks and recreation advisory board or any of its members to impose any liability of any nature, financial or otherwise, upon the city.

(7) Three (3) consecutive unexcused absences by a board member shall result in removal by the mayor. (2005 Code, § 2-102)

CHAPTER 2

BOARD MEMBERS ATTENDANCE POLICY

SECTION

2-201. Attendance policy.

2-201. Attendance policy. The Board of Mayor and Commissioners for the City of South Pittsburg, Tennessee hereby establish an attendance policy whereby upon three (3) consecutive unexcused absences of a member of any board listed below, such board member's term shall expire, and such board member shall be replaced by either the mayor or the board of mayor and commissioners, in the same manner by which said departing board member was appointed. The following boards are subject to the provisions of this chapter:

- (1) Beer board;
- (2) Board of zoning appeals;
- (3) Elderly housing board;
- (4) South Pittsburg Housing Authority Board;
- (5) Industrial development board;
- (6) Park board; and
- (7) Planning commission. (2005 Code, § 2-201)

TITLE 3**MUNICIPAL COURT¹****CHAPTER**

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

CHAPTER 1**CITY JUDGE****SECTION**

- 3-101. Office of city judge created.
3-102. Powers and duties.
3-103. Salary.

3-101. Office of city judge created. The office of city judge is hereby created, and it shall be filled in accordance with provisions of the charter for a term of four (4) years by the board of mayor and commissioners. (2005 Code, § 3-101)

3-102. Powers and duties. The city judge shall have all of the jurisdiction, powers, and duties provided for the city court in the charter of the City of South Pittsburgh. (2005 Code, § 3-102)

3-103. Salary. The city judge shall receive a salary of four hundred dollars (\$400.00) per month. (2005 Code, § 3-103)

¹Charter references

Appointment; term of office; qualifications: art. 4, § 1.

Jurisdiction: art. 4, § 2.

Temporary judge: art. 4, § 3.

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket.

3-202. Imposition of fines, penalties, and costs.

3-203. Disposition and report of fines, penalties, and costs.

3-204. Contempt of court.

3-201. Maintenance of docket. The city clerk shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant. (2005 Code, § 3-201, modified)

3-202. Imposition of fines, penalties, and costs. All fines, penalties, and costs shall be imposed and recorded by the city clerk on the city court docket in open court and then paid into the general fund of the city.

In all cases heard or determined by him, the city clerk shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases. (2005 Code, § 3-202, modified)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the governing body a report accounting for the collection or noncollection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (2005 Code, § 3-203)

3-204. Contempt of court. It shall be deemed to be contempt of court and a misdemeanor for any person to: willfully fail or refuse to obey any legally issued and served process from the city court; to prevent or attempt to prevent, by unlawful coercion or threats, any other person from complying with such process; to unlawfully refuse to answer any proper question asked him by or before the court; to interfere with or disturb, by noises or otherwise, proceedings of the city court; or to wilfully fail or refuse to obey any lawful order of the city court. (2005 Code, § 3-205)

¹State law reference

Tennessee Code Annotated, § 8-21-401.

CHAPTER 3

WARRANTS, SUMMONSES, AND SUBPOENAS

SECTION

3-301. Issuance of subpoenas.

3-301. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (2005 Code, § 3-303)

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appeals.

3-402. Bond amounts, conditions, and forms.

3-401. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days¹ next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (2005 Code, § 3-402)

3-402. Bond amounts, conditions, and forms. An appeal bond in any case shall be in the sum of two hundred fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property within the county. No other type bond shall be acceptable. (2005 Code, § 3-403, modified)

¹State law reference

Tennessee Code Annotated, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. SOCIAL SECURITY; CITY PERSONNEL.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1

SOCIAL SECURITY; CITY PERSONNEL

SECTION

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

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

There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the city. (2005 Code, § 4-101)

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. (2005 Code, § 4-102)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (2005 Code, § 4-103)

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. (2005 Code, § 4-104)

4-105. Records and reports to be made. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (2005 Code, § 4-105)

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-201. Establishment.

4-202. Title.

4-203. City administrator designated program director.

4-204. Program standards.

4-205. Effective date of plan.

4-201. Establishment. In compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the City of South Pittsburg, Tennessee, hereby establishes an "Occupational Safety and Health Program" for its employees. (2005 Code, § 4-201)

4-202. Title. This chapter shall be known as the "Occupational Safety and Health Program for the employees of the City of South Pittsburg." (2005 Code, § 4-202)

4-203. City administrator designated program director. The City of South Pittsburg hereby designates the city administrator, hereinafter referred to as the "director," to establish a safety and health program in compliance with the requirements of the Tennessee Occupational Safety and Health Act of 1972, and he is hereby given the authority to implement a plan which shall encompass the issues and standards which have been promulgated by applicable state standards. (2005 Code, § 4-203)

4-204. Program standards. This plan shall be at least as effective as the federal or state standards on the same issues and shall include the following:

(1) The director or his authorized representatives shall have the right to enter at any reasonable time any establishment, construction site, plant, or other area, workplace, or environment where work is performed in the City of South Pittsburg, and to inspect and investigate any such place of employment and all pertinent conditions, processes, machines, devices, equipment, and materials therein, and to question privately any supervisor or employee.

(2) The director may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence under oath for the purpose of confirming or supplementing his findings.

(3) The director shall provide for education and training of personnel for the administration of the program, and he shall provide for the education and training of all employees of the city to the extent that same is necessary for

said employees to recognize and report safety and health problems as defined in the applicable standards.

(4) All employees shall be informed of the policies and the standards set forth by the Tennessee Occupational Safety and Health Act.

(5) All employees of the city shall be informed of safety hazards, exposure to toxic or harmful materials, and imminent danger situations that may occur in their jobs.

(6) The director or his authorized representative shall, upon any allegation of imminent danger, immediately ascertain whether there is a reasonable basis for the complaint. He shall make a preliminary determination of whether or not the complaint appears to have merit. If such is the case he or his authorized representative shall take appropriate remedial action.

(7) Any employee shall be given the right to participate in an investigation or inspection which involves a safety and/or health situation which concerns his work area.

(8) The director shall establish a safety and health training program designed to instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment.

(9) The director shall contact the Commissioner of Labor of the State of Tennessee by telephone in the event of the death of an employee involved in a work-related accident. This notification will be done as soon after the fatality as possible but not to exceed forty-eight (48) hours.

(10) The director shall set up a procedure for requesting a variance from the Tennessee Department of Labor in the event an operation within the city does not meet the standards set by the Occupational Safety and Health Act and immediate action to alleviate the discrepancy is not possible.

(11) The director shall establish and maintain a system for collecting and reporting safety and health data required under the Tennessee Occupational Safety and Health Act.

(12) The director shall apply this program to employees of each administrative department, commission, board, division or other agency of the City of South Pittsburg, Tennessee.

(13) The director shall make an annual report to the Commissioner of Labor for the State of Tennessee showing the accomplishments and progress of the City of South Pittsburg, Tennessee in its "Occupational Safety and Health Program."

(14) The director shall provide a means whereby any employee may submit a report of what he feels is a safety and/or health hazard to his immediate supervisor and the director without fear of jeopardizing his job or chances for future promotion. Such reports shall be preserved and the action thereon shall be noted on said reports and signed by the director or his designees.

(15) In implementing the plan the director shall adopt therein all the words and phrases designated as "definitions" in the Tennessee Occupational Safety and Health Act, promulgated regulations and standards thereunder.

(16) The director shall submit said plan to the Tennessee Department of Labor for approval on or before November 1, 1973. (2005 Code, § 4-204)

4-205. Effective date of plan. Said plan, upon its approval by the Tennessee Department of Labor, shall become effective to the City of South Pittsburg, Tennessee, and at that time shall become a part of this chapter as fully and completely as if set out herein. (2005 Code, § 4-205)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. REAL PROPERTY TAXES.
2. PRIVILEGE TAXES.
3. WHOLESALE BEER TAX.

CHAPTER 1

REAL PROPERTY TAXES

SECTION

5-101. When due and payable.

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

5-101. When due and payable.² Taxes levied by the city against real property shall become due and payable annually on the first Monday of October of the year for which levied, as provided in art. 6, § 2 of the city's charter. (2005 Code, § 5-101)

¹Charter references

Collection of delinquent taxes: art. 6, § 3.

County may collect taxes: art. 6, § 4.

Recorder to collect taxes: art. 3, § 10.

²State law reference

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.

5-102. When delinquent; penalty and interest; collection.¹ All real property taxes shall become delinquent on and after the first day of March next after they become due and payable, as provided in art. 6, § 3 of the city's charter, and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.²

The recorder and city attorney shall have and employ the same powers and authority for collecting delinquent city taxes that county officials have for collecting delinquent county taxes. (2005 Code, § 5-102)

¹State law reference

Tennessee Code Annotated, § 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of one-half percent (0.5%) and interest of one percent (1%) shall be added on the first day of March following the tax due date, and on the first day of each succeeding month.

²Charter 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 to 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 at the rates and in the manner prescribed by the said act. (2005 Code, § 5-201)

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 recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (2005 Code, § 5-202)

CHAPTER 3

WHOLESALE BEER TAX

SECTION

5-301. To be collected.

5-301. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the Wholesale Beer Tax Act, as set out in *Tennessee Code Annotated*, title 57, chapter 6.¹ (2005 Code, § 5-301)

¹State law reference

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

Municipal code reference

Alcohol and beer regulations: title 8.

TITLE 6

LAW ENFORCEMENT¹

CHAPTER

1. POLICE DEPARTMENT.
2. ARREST PROCEDURES.

CHAPTER 1

POLICE DEPARTMENT

SECTION

- 6-101. Police officers subject to chief's orders.
- 6-102. Police officers to preserve law and order, etc.
- 6-103. Police department records.
- 6-104. Police officers to wear uniforms and be armed.
- 6-105. Auxiliary police force.

6-101. Police officers subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (2005 Code, § 6-101)

6-102. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court. (2005 Code, § 6-102)

6-103. Police department records. The police department shall keep a comprehensive and detailed daily record, in permanent form, showing:

- (1) All known or reported offenses and/or crimes committed within the corporate limits;
- (2) All arrests made by police officers; and
- (3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (2005 Code, § 6-103)

6-104. Police officers to wear uniforms and be armed. All police officers shall wear such uniform and badge as the board of mayor and

¹Municipal code reference

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

commissioners shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (2005 Code, § 6-104)

6-105. Auxiliary police force. (1) Establishment. There shall be established within the police department an auxiliary police force to consist of twenty (20) members, who shall, when serving as police officers, have all the powers, duties, and responsibilities as conferred upon regular police officers, as provided by the state law and the charter and ordinances of the city.

(2) Appointment, qualifications, and removal of members. The members of the auxiliary police force shall be appointed by the city administrator upon recommendation of the chief of police. Membership shall be upon a voluntary basis, and shall consist of persons who are of good moral character and high integrity. The members shall be issued a card or certificate, showing that they are members of such police force, and will be issued a badge indicating their membership. Members shall wear such uniform, when on duty, as shall be prescribed by the chief of police. Members shall also wear such other articles of identification or insignia as may be prescribed by the chief of police. The members of the auxiliary police force shall be subject to removal at any time by the chief of police or the city administrator. In the event of removal, the chief of police or city administrator, shall notify the member removed. The member shall return to the chief of police or the city administrator, his identification card, badge, and such other insignia as may have been issued to him.

(3) Organization. The auxiliary police force shall be organized by chief of police and city administrator under the supervision of the chief of police.

(4) Rules and regulations. The chief of police shall make such rules and regulations as necessary for the meetings, training, and activities of the auxiliary police force.

(5) Supervision. The auxiliary police force shall be under the supervision and control of the chief of police, or in his absence, the city administrator, or in his absence the mayor, or in his absence the next in line of authority, and shall perform such duties as assigned to it.

In the event of an emergency, the auxiliary police force may be called out for extended duty by the chief of police with the approval of the city administrator. In the event they are placed upon extended duty the members of the auxiliary police force shall be paid such compensation as may be fixed by the board of mayor and commissioners. At other times, when their duties are purely temporary and for a day or less duration, then they shall serve on a purely voluntary basis.

(6) Violations. It is hereby declared a misdemeanor for any person to act as an auxiliary police officer unless specifically authorized, as provided in this chapter, or for any person to wear or display any of the insignia designating the auxiliary police force, or to represent himself to be a member thereof when

he is not, and upon conviction before the city court, shall be punished under the general penalty clause for this code. (2005 Code, § 6-105)

CHAPTER 2

ARREST PROCEDURES

SECTION

6-201. When police officers to make arrests.

6-202. Disposition of persons arrested.

6-203. Police officers may require assistance.

6-201. When police officers to make arrests.¹ Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

(1) Whenever he is in possession of a warrant for the arrest of the person.

(2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (2005 Code, § 6-201)

6-202. Disposition of persons arrested. Unless otherwise authorized by law, when any person is arrested he shall be brought before the court for immediate trial or allowed to post bond. (2005 Code, § 6-202, modified)

6-203. Police officers may require assistance. It shall be unlawful for any person willfully to refuse to aid a police officer in maintaining law and order or in making a lawful arrest when such person's assistance is requested by the policeman and is reasonably necessary. (2005 Code, § 6-203)

¹Municipal code reference

Issuance of citation in lieu of arrest in traffic cases: title 15, chapter 7.

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE CODE.
2. FIRE DEPARTMENT.
3. FIRE SERVICE OUTSIDE CITY LIMITS.

CHAPTER 1

FIRE CODE²

SECTION

- 7-101. Fire code adopted.
- 7-102. Enforcement.
- 7-103. Definition of "municipality."
- 7-104. Gasoline trucks.
- 7-105. Variances.
- 7-106. Violations and penalty.

7-101. Fire code adopted. (1) A certain document, one (1) copy of which is on file in the office of the South Pittsburg City Recorder being marked and designated as the *International Fire Code*, 2015 edition, as published by the International Code Council, be and is hereby adopted as the fire code of the City of South Pittsburg, Tennessee for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code on file in the office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with additions, insertions, deletions and changes, if any, presented in subsection (2) of this section.

¹Municipal code reference

Building, utility, and residential codes: title 12.

²Municipal code reference

Building, utility, and residential codes: title 12.

(2) The following sections are hereby revised:

Section 101.1. Insert: City of South Pittsburgh

Section 109.3. Insert: Offense, dollar amount, number of days

Section 111.4. Insert: \$50, as prescribed by law

Section 404.2 Insert: and filed with the Building Inspector and Fire Department to the issuance of a Certificate of Occupancy.

(2005 Code, § 7-201, as amended by Ord. #776, July 2017, and Ord. #821, Sept. 2021)

7-102. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the fire inspector acting under the supervision of the fire chief and the city administrator. He shall have the same powers as the state fire marshal. (2005 Code, § 7-202)

7-103. 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 South Pittsburgh, Tennessee. (2005 Code, § 7-203)

7-104. 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. (2005 Code, § 7-204)

7-105. Variances. The chief of the fire department may recommend to the board of mayor and commissioners 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 of mayor and commissioners. (2005 Code, § 7-205)

7-106. Violations and penalty. It shall be unlawful for any person to violate any of the provisions of this chapter or the 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 modified by the board of mayor and commissioners or by a court of competent jurisdiction, within the time fixed herein. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. The application of a

penalty shall not be held to prevent the enforced removal of prohibited conditions. (2005 Code, § 7-206, modified)

CHAPTER 2

FIRE DEPARTMENT¹

SECTION

- 7-201. Establishment, equipment, and membership.
- 7-202. Objectives.
- 7-203. Organization, rules, and regulations.
- 7-204. Records and reports.
- 7-205. Tenure and compensation of members.
- 7-206. Chief responsible for training.
- 7-207. Chief to be assistant to state officer.

7-201. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations by the board of mayor and commissioners. All apparatus, equipment and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the city administrator and such number of physically-fit subordinate officers and firemen as the chief shall appoint and the city administrator shall approve. (2005 Code, § 7-301)

7-202. Objectives. The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting;
- (2) To prevent the loss of life and property because of fires;
- (3) To confine fires to their places of origin;
- (4) To extinguish uncontrolled fires;
- (5) To prevent loss of life from asphyxiation or drowning; and
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (2005 Code, § 7-302)

7-203. Organization, rules, and regulations. The chief of the fire department, under the direction of the city administrator, shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (2005 Code, § 7-303)

7-204. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel and work of the department. He shall submit such written reports on such

¹Municipal code reference

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

matters to the city administrator, as the city administrator requires. The city administrator shall submit a report on those matters to the board of mayor and commissioners as the board of mayor and commissioners may require. (2005 Code, § 7-304)

7-205. Tenure and compensation of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the city administrator. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department.

All personnel of the fire department shall receive such compensation for their services as the board of mayor and commissioners may from time to time prescribe. (2005 Code, § 7-305)

7-206. Chief responsible for training. The chief of the fire department under the direction of the city administrator, shall be fully responsible for the training of the firemen, and for maintenance of all property and equipment of the fire department. (2005 Code, § 7-306)

7-207. Chief to be assistant to state officer. Pursuant to requirements of *Tennessee Code Annotated*, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of insurance and banking and is subject to all the duties and obligations imposed by *Tennessee Code Annotated*, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (2005 Code, § 7-308)

CHAPTER 3

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-301. Equipment to be used only within corporate limits.

7-301. Equipment to be used only within corporate limits. No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless expressly authorized by the board of mayor and commissioners by resolution based upon and approving a written contract for rendering firefighting services within another municipality as set out in a written contract duly executed with and by such other municipality. (2005 Code, § 7-307)

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.
3. LIQUOR BY THE DRINK.

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

- 8-101. Definitions.
- 8-102. Subject to regulation.
- 8-103. Manufacture prohibited.
- 8-104. Wholesalers.
- 8-105. Sale by licensee legalized.
- 8-106. Qualification of applicant.
- 8-107. Content of application for certificate of good moral character.
- 8-108. Misrepresentation or concealment.
- 8-109. Restrictions on issuance of certificate of good moral character.
- 8-110. Amount of investigation fee.
- 8-111. Miscellaneous restrictions on licensees and their employees.
- 8-112. Nature and revocability of license.
- 8-113. Display of license.
- 8-114. Location of liquor store.
- 8-115. Maximum number of licenses.
- 8-116. License not transferable.
- 8-117. Limited time of operation.
- 8-118. Minors, persons visibly intoxicated and habitual drunkards.
- 8-119. No consumption on premises of liquor store.
- 8-120. Public drinking and public display of alcoholic beverage prohibited.
- 8-121. Inspection fee.
- 8-122. Inspection fee reports.
- 8-123. Records to be kept by licensee.

¹Municipal code references

Driving under the influence: § 15-104.

Minors in beer places: title 11, chapter 1.

State law reference

Tennessee Code Annotated, title 57.

- 8-124. Inspections.
- 8-125. Effect of failure to report and pay inspection fee.
- 8-126. Use of funds derived from inspection fees.
- 8-127. Other violations by licensee.
- 8-128. Licensee's responsibility.
- 8-129. Initial applications.
- 8-130. Violations and penalty.

8-101. Definitions. Whenever used in this chapter the following terms shall have the following meanings unless the context necessarily requires otherwise.

(1) "Alcoholic beverages" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. "Beer" shall be defined pursuant to *Tennessee Code Annotated*, § 57-5-101.

(2) "Applicant" means the party applying for a certificate of good moral character or a license.

(3) "Application" means the form or forms an applicant is required to file in order to obtain a certificate of good moral character or license.

(4) "Board" means the board of mayor and commissioners of the city.

(5) "Bottle" means any container, vessel, bottle, or other receptacle used for holding any alcoholic beverage. "Unsealed bottle" means a bottle with the original seal, cork, cap, or other enclosing device either broken or removed, or on which the federal revenue strip stamp has been broken.

(6) "Certificate of good moral character" means the certificate provided for in *Tennessee Code Annotated*, § 57-3-208, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(7) "City" means the City of South Pittsburg, Tennessee.

(8) "City recorder" means the city recorder of the city.

(9) "Corporate limits" means the corporate limits of the city as the same now exist or may hereafter be changed.

(10) "Distiller" means any person who owns, occupies, carries on, works, conducts, or operates any distillery either by himself or by his agent.

(11) "Distillery" means and includes any place or premises wherein any alcoholic beverage is manufactured for sale.

(12) "Federal statutes" means the statutes of the United States now in effect or as they may hereafter be changed.

(13) "Inspection fee" means the monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

(14) "License" means a license issued by the state under the provisions of this chapter for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the city.

(15) "License fee" means the annual fee a licensee is required by this chapter to pay at or prior to the time of the issuance of a license.

(16) "Licensee" means the holder of a license.

(17) "Liquor store" means the building or the part of a building where a licensee conducts any of the business authorized by his license.

(18) "Manufacturer" means and includes a distiller, vintner, and rectifier of alcoholic beverage. "Manufacture" means and includes distilling, rectifying and operating a winery or any device for the production of alcoholic beverage.

(19) "Person" shall mean and include an individual, partner, association, or corporation.

(20) "Rectifier" means and includes any person who rectifies, purifies, or refines any alcoholic beverage by any process other than as provided for on distillery premises, and also any person who, without rectifying, purifying, or refining an alcoholic beverage, shall, by mixing an alcoholic beverage with any other material, thereby manufacture any imitation thereof, or who compounds an alcoholic beverage for sale under the name of: whiskey, brandy, gin, rum, wine, spirits, cordials, bitters or any other name.

(21) "Retail sale" or "sale at retail" means a sale of alcoholic beverage to a consumer or to any person for any purpose other than for resale.

(22) "Sale" or "sell" means and includes the exchange or barter of alcoholic beverage, and also any delivery made otherwise than gratuitously of alcoholic beverage; the soliciting or receiving of an order for alcoholic beverage; the keeping, offering, or exposing of alcoholic beverage for sale.

(23) "State" means the State of Tennessee.

(24) "State alcoholic beverage commission" means the Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including, without limitation, the provisions of *Tennessee Code Annotated*, §§ 57-1-101 to 57-1-209.

(25) "State liquor retailer's license" means a license issued under the state statutes (including the provisions contained in *Tennessee Code Annotated*, §§ 57-2-101 to 57-2-105) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

(26) "State rules and regulations" means all applicable rules and regulations of the State of Tennessee applicable to alcoholic beverages, as now in effect or as they may hereafter be changed, including, without limitation, the local option liquor rules and regulations of the state.

(27) "State statutes" means the statutes of the State of Tennessee now in effect or as they may hereafter be changed.

(28) "Vintner" means any person who owns, occupies, carries on, works, conducts or operates any winery, whether by himself or by his agent.

(29) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(30) "Wholesaler" means any person who sells at wholesale any alcoholic beverage for the sale of which a license is required under the provisions of *Tennessee Code Annotated*, §§ 57-2-101 to 57-2-105.

(31) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe, grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions; including also champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or unless designated as an artificial or imitation wine.

(32) "Winery" means and includes any place or premises wherein wine is manufactured or brandies are distilled as the by product of wine or where cordials are compounded.

Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural. (2005 Code, § 8-101)

8-102. Subject to regulation. It shall be unlawful for any person either to engage in the business of selling, storing, transporting, or distributing any alcoholic beverage within the corporate limits of the city or to sell, store, transport, distribute, purchase, or possess any alcoholic beverage within the corporate limits of the city, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter. (2005 Code, § 8-102)

8-103. Manufacture prohibited. It shall be unlawful for any person to manufacture any alcoholic beverage within the corporate limits of the city. (2005 Code, § 8-103)

8-104. Wholesalers. Unless hereafter authorized by an ordinance of the city, no wholesaler's license shall be granted to any person for the operation within the corporate limits of the city of any business for the sale at wholesale of any alcoholic beverage. Any wholesaler whose business is located outside the city and who holds a valid state license, and who has paid to the city all privilege taxes and fees applicable to such wholesale business, may purchase any alcoholic beverage from such wholesaler, but only as provided by the state statutes, the state rules and regulations, the federal statutes, and by this chapter. (2005 Code, § 8-104)

8-105. Sale by licensee legalized. It shall be lawful for a licensee to sell any alcoholic beverage at retail in a liquor store, within the corporate limits, provided such sales are made in compliance with applicable federal statutes, state statutes, state rules and regulations, and the provisions of this chapter. (2005 Code, § 8-105)

8-106. Qualification of applicant. To be eligible to apply for or to receive a certificate of good moral character, an applicant must satisfy the requirements of this chapter, and of the state statutes and state rules and regulations for a holder of a state liquor retailer's license. (2005 Code, § 8-106)

8-107. Content of application for certificate of good moral character. Each applicant for a certificate of good moral character shall file with the board of mayor and commissioners a completed form of application, on a form to be provided by the board of mayor and commissioners, and which shall contain the following information:

(1) The name and street address of each person to have any interest, direct or indirect, in the licensee as owner, partner, or stockholder, director, officer, or otherwise;

(2) The name of the liquor store to be operated under the license;

(3) The address of the liquor store to be operated under the license and zoning designation applicable to such location;

(4) The statement that each applicant has either resided within the corporate limits of the city as the same now exist during the two (2) consecutive years immediately preceding the date the application is filed, or has owned real estate situated within the corporate limits of the city as the same now exist during the two (2) consecutive years immediately preceding the date the application is filed. However, this residency requirement does not apply to any applicant who has been continuously licensed in South Pittsburg for seven (7) consecutive years;

(5) The names and addresses of at least three (3) residents of the city who have known each applicant for at least two (2) years;

(6) If any applicant seeks to meet the requirements of § 8-106 herein through ownership of property for the required two (2) year period rather than by residence, then each such applicant shall furnish the board of mayor and commissioners with a legal description of such real estate, owned by the applicant for the required two (2) year period and also the book and page number in the Register's Office of Marion County, Tennessee, where the deed or other instrument conveying title to such real estate to the applicant is recorded; each partner of a partnership and each stockholder, director, and officer of the corporation who seeks to meet the requirements of § 8-106 herein through ownership of property for the required two (2) year period rather than by residence, then each such partner of a partnership, stockholder, director and officer of the corporation shall furnish the board of mayor and commissioners with a legal description of such real estate owned by such person for the required two (2) year period and also the book and page number in the Register's Office of Marion County, Tennessee, where the deed or other instrument conveying title to such real estate to such person is recorded;

(7) The agreement of each applicant to comply with the state statutes, federal statutes, this chapter and with the state rules and regulations with reference to the sale of alcoholic beverages; and

(8) The agreement of each applicant that he will be actively engaged in the retail sale of alcoholic beverages at the liquor store described in the application within one hundred and twenty (120) days after the license is granted to such applicant. The application form shall be accompanied by a copy of each application, and each questionnaire form and other material to be filed by the applicant with the state alcoholic beverage commission in connection with the same application, and shall also be accompanied by five (5) copies of a plan drawn to a scale of not less than one inch equals twenty feet (1"=20'), giving the following information:

(a) The shape, size, and location of the lot upon which the liquor store is to be operated under the license;

(b) The shape, size, height, and location of all buildings, whether they are to be erected, altered, moved, or existing, upon the lot;

(c) The off-street parking space and the off-street loading and unloading space to be provided including the vehicular access to be provided from these areas to a public street; and

(d) The identification of every parcel of land within three hundred feet (300') of the lot upon which the liquor store is to be operated indicating ownership thereof and the locations of any structures situated thereon and the use being made of every such parcel.

The application form shall be signed and verified by each person to have any interest in the licensee either as owner, partner, or stockholder, director, officer or otherwise. If, at any time, the applicable state statutes shall be changed so as to dispense with the requirements of a certificate of good moral character, no original or renewal license shall be issued until an application in the same form has been filed with the board of mayor and commissioners.

The recorder shall review each application, note any apparent questions, errors and insufficiencies and submit same to the board for consideration and action. (2005 Code, § 8-107)

8-108. Misrepresentation or concealment. A misrepresentation or concealment of any material fact in any application shall constitute a violation of this chapter, and the board shall forthwith report such violation to the state alcoholic beverage commission together with the request that the state alcoholic beverage commission take action necessary to revoke or refuse to grant or renew a license to an applicant guilty of such misrepresentation or concealment. (2005 Code, § 8-108)

8-109. Restrictions on issuance of certificate of good moral character. (1) No certificate of good moral character shall be issued unless a license issued on the basis thereof to such applicant can be exercised without

violating any provision of this chapter, the state statutes, the state rules and regulations or the federal statutes.

(2) The board of mayor and commissioners shall not sign any certificate of good moral character for any applicant until: such applicant includes in his application a statement that if he is granted a certificate of good moral character he will open his liquor store with a minimum inventory of ten thousand dollars (\$10,000.00) in wholesale value and that his liquor store will have at least one thousand (1,000) square feet of floor space; such applicant's application has been filed with the board; the location stated in the certificate has been approved by the board as a suitable location for the operation of a liquor store; and the application has been considered at a meeting of the board and approved by a majority vote of the entire board. (2005 Code, § 8-109)

8-110. Amount of investigation fee. Before any person shall engage in the sale of alcoholic beverage, an investigation fee of two hundred fifty dollars (\$250.00) per calendar year shall be paid, but when due after July 1, in any calendar year, the investigation fee shall be one hundred twenty-five dollars (\$125.00) for the remainder of such calendar year. (2005 Code, § 8-110)

8-111. Miscellaneous restrictions on licensees and their employees. (1) No certificate of good moral character shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city, or county; and it shall be unlawful for any such person to have any interest in the liquor retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

(2) No certificate of good moral character shall be issued to a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the legal entity with which he is connected files application therefor; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction; and provided, further, that in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation, or association with which he is connected shall immediately discharge him as an employee, and such convicted felon shall forthwith divest himself of all interest in the business of the licensee, either as a partner, officer, director, stockholder or otherwise.

(3) No certificate of good moral character shall be issued to any person who, within ten (10) years preceding application therefor shall have been convicted of any offense under the state statutes, state rules and regulations, the federal statutes, this chapter or of the statutes of any other state or of the United States prohibiting or regulating the sale, possession, transportation,

storing, manufacturing, or otherwise handling alcoholic beverage or who has, during said period, been engaged in business alone or with others in violation of any of the state statutes, state rules and regulations, the federal statutes or the laws, rules and regulations of any other state, county, or city of the United States; and provided further that in case of any such conviction occurring after a license has been issued and received, it shall be recommended that the said license shall immediately be revoked.

(4) It shall be unlawful for any manufacturer or wholesaler to have any interest in the licensee's rental or revenues.

(5) It shall be unlawful for any person to have ownership in, or to be a partner in or a stockholder, director, or officer, or to participate, either directly or indirectly, in the profits of any business for which a license is granted hereunder, unless his interest in said business and the nature, extent, and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall have been fully disclosed in writing by supplement to the application filed with the board and approved in writing by the board before such interest is acquired. Where such interest is owned by any person on or before the application for a license, the burden shall be upon such person to see that this section is fully complied with, whether, he, himself, signs or prepares the application, or whether the same is prepared by another; or if such interest is acquired after the issuance of the license, the burden of the required disclosure of the proposed acquisition of such interest shall be upon both the seller and the purchaser.

(6) No licensee shall employ in the storage, sale, or distribution of alcoholic beverage a person under the age of eighteen (18) years, and it shall be unlawful for any licensee to permit a minor in its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(7) No licensee shall employ in the sale of alcoholic beverage, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude and in case an employee should be convicted he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored, or judgement of infamy has been removed by a court of competent jurisdiction.

(8) It shall be unlawful for a licensee to advertise by signs, window displays, posters, or any other designs intended to advertise any alcoholic beverage within the corporate limits of the city except by signs approved by the board, not larger in area than fifty-five (55) square feet, designating the premises as " _____ Package Store." Only two (2) such signs, one (1) freestanding and one (1) attached to the structure, shall be permitted and the signs shall contain no animation or flashing. Nothing contained herein shall prohibit any manufacturer or wholesaler from advertising in news media.

(9) No licensee shall employ or otherwise use the services of any canvasser, agent, solicitor, or representative for the purpose of receiving an

order from a consumer for any alcoholic beverage at the residence or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensee at the licensee's premises.

(10) All retail sales shall be confined to the premises of the licensee. No curb service shall be permitted, nor shall there be permitted drive-in windows.

(11) No liquor store shall be located in the city on any premises above the ground floor. Each liquor store shall have only one (1) main entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverage at retail, provided, however, that any liquor store adjoining the lobby of a hotel or motel may maintain an additional entrance into such lobby so long as said lobby is open to the public.

(12) If a licensee is a corporation, then in addition to the other provisions of this chapter:

(a) No person owning stock in or who is an officer or director in such corporate licensee shall have any interest as an owner, stockholder, officer, director, or otherwise in any business licensed to engage in the sale at wholesale or retail of alcoholic beverage in the state or in any other place; and

(b) No stock of such corporate licensee shall be transferred by sale, gift, pledge, operation of law or otherwise to any person who has not been a resident of the city for the two (2) consecutive years immediately preceding the date of any such transfer; nor shall any of said stock be so transferred to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder.

(13) If any licensee, for any reason, shall not be actively engaged in and keep open its liquor store during normal business hours for a period of fifteen (15) work days in any calendar year, then the city recorder shall forthwith report such fact to the state alcoholic beverage commission and take such other action as may appear necessary or proper to have the license of such licensee revoked.

(14) Each liquor store licensed hereunder shall be personally and actively managed by the holder of the license, if the licensee is an individual or by a partner or corporate officer, if the licensee is a partnership or a corporation. In every case where alcoholic beverage is sold by a licensee that is either a partnership or a corporation the name and address of the managing partner or the corporate officer who will be in active control and management of the liquor store shall be designated in the application, and any future changes in such manager shall be reported forthwith in writing to the city recorder. (2005 Code, § 8-111)

8-112. Nature and revocability of license. The issuance of a license hereunder shall vest no property rights in the licensee and such license shall be a privilege subject to revocation or suspension as provided by the state statutes and state rules and regulations. In the event of any violation of the state statutes, state rules and regulations, federal statutes or of the provisions of this chapter by a licensee or by any person for whose acts the licensee is responsible, then the city recorder shall forthwith report such violation to the Tennessee Alcoholic Beverage Commission or other appropriate state board to have the license of such licensee suspended or revoked as provided by law. (2005 Code, § 8-112)

8-113. Display of license. The licensee shall display and post, and keep displayed and posted, his license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee. (2005 Code, § 8-113)

8-114. Location of liquor store. Liquor stores may be operated and maintained on premises fronting on U.S. Highway 72 within the corporate limits, but only within the following listed zones as defined in the zoning ordinance of the City of South Pittsburg, as set out on the zoning map of the City of South Pittsburg, Tennessee, as in effect on the date of any application for a license hereunder:

C-1 (Central Business) District

C-2 (General Commercial) District

C-3 (Local Highway-Limited) District

All provisions of the zoning ordinance of the City of South Pittsburg, Tennessee, including, but not limited to, those provisions relating to the required yard area, off-street loading and unloading of vehicles and off-street parking, which are applicable to the zoning district in which a liquor store is authorized to operate hereunder, shall be complied with by each licensee as a condition precedent to the operation of any liquor store authorized by this chapter. No pinball machines or other amusement devices and no seating facilities other than for employees shall be permitted in any liquor store. No political advertising of or for any candidate or party by poster, card, matches, or otherwise and no campaign material shall be placed, displayed, or dispensed on the premises of any liquor store. A liquor store shall not be located within three hundred feet (300') of any church edifice or school as measured in a direct line from the center of the front door of the licensee's place of business. To assure that these requirements are satisfied, no original or renewal license and original or renewal certificate of good moral character for an applicant for license shall be issued for any location until a majority of the members of the board have approved the proposed location as being suitable for a liquor store after a consideration of this matter at a meeting of the board. (2005 Code, § 8-114)

8-115. Maximum number of licenses. No more than five (5) licenses shall be issued and outstanding at any time under the provisions of this chapter. No person shall make application for, nor shall any person have on file and pending at any time, an application for more than one (1) certificate of good moral character or for more than one (1) license to operate a liquor store. (2005 Code, § 8-115)

8-116. License not transferable. A licensee shall not sell, assign, give, pledge, or otherwise transfer his license or any interest therein to any other person. No license shall be transferred from the licensee by operation of law through any proceedings in bankruptcy, insolvency, or receivership, or by execution, garnishment or other similar proceedings. No license shall be transferred from one location to another without the prior written approval of the board. (2005 Code, § 8-116)

8-117. Limited time of operation. No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on Christmas Day, on Thanksgiving Day, or on any day on which a public election is held within the city. On other days, licensees shall sell alcoholic beverage during times pursuant to *Tennessee Code Annotated*, § 57-3-406(e). In the event of any emergency, liquor stores shall be closed upon order of the Mayor of South Pittsburg. (2005 Code, § 8-117, modified)

8-118. Minors, persons visibly intoxicated and habitual drunkards. It shall be unlawful for any licensee to sell, furnish, or give away any alcoholic beverage to any person who is under twenty-one (21) years of age or to any person who is visibly intoxicated or to any person who is a habitual drunkard (any person under twenty-one (21) years of age or visibly intoxicated or a habitual drunkard being hereafter in this section referred to as "such person.") It shall be unlawful for any such person to enter or remain in a liquor store, or to loiter in the immediate vicinity of a liquor store. It shall be unlawful for a licensee to allow any such person to enter or remain in the licensee's liquor store or any part of the licensee's property adjacent to the liquor store. It shall be unlawful for any such person to buy or receive any alcoholic beverage from any licensee or from any other person. It shall be unlawful for a minor to misrepresent his age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee. It shall be unlawful for any person to purchase any alcoholic beverage from any licensee for the purpose of selling or giving such alcoholic beverage to such person. (2005 Code, § 8-118)

8-119. No consumption on premises of liquor store. It shall be unlawful for any licensee to sell or furnish any alcoholic beverage for consumption in such licensee's liquor store on the premises used by the licensee in connection therewith. It shall be unlawful for any person to consume any

alcoholic beverage in a liquor store or in the immediate vicinity of a liquor store. It shall be unlawful for any licensee to allow any person to consume any alcoholic beverage in such licensee's liquor store or on the premises used by the licensee in connection therewith. (2005 Code, § 8-119)

8-120. Public drinking and public display of alcoholic beverage prohibited. It shall be unlawful for any person to drink any alcoholic beverage or visibly and openly possess, display, or show an unsealed bottle containing any alcoholic beverage in that portion of a restaurant or other eating place to which the general public is admitted, or in the parking area of any drive-in restaurant, or on any public street or sidewalk, or in any public park, playground, auditorium, theater, stadium, school, or school ground or in any other public place unless same shall first be authorized by permit or license duly issued by and from the Beer Board of the City of South Pittsburg and/or the Tennessee Alcoholic Beverage Commission, except that not more than six feet (6') of the sidewalk: extending from the front of the building that houses a business holding such permit or license may be lawfully used for such purposes. (Ord. #881, July 2022)

8-121. Inspection fee. There is hereby levied on each licensee in the city an inspection fee in the amount of eight percent (8%) of the wholesale price of all alcoholic beverage supplied during each calendar month by a wholesaler to each licensee in the city. It shall be unlawful for any wholesaler to supply, ship or otherwise deliver any alcoholic beverage to a licensee, and it shall be unlawful for any licensee to receive any alcoholic beverage, unless there shall be issued and delivered to the licensee by the wholesaler, concurrently with each such shipment or delivery, an invoice showing:

- (1) The date of the transaction;
- (2) The name and address of the wholesaler and of the licensee;
- (3) The brand name and quantity of alcoholic beverage covered by the invoice; and
- (4) The unit wholesale price and the gross wholesale price for each item listed thereon. The wholesaler's invoice shall be issued and delivered to the licensee as hereinabove provided without regard to the terms of payment of the invoice so as to include all such transactions whether for cash or on credit or partly for cash and partly for credit. The inspection fee, computed as hereinabove provided, shall be paid by each licensee to the city recorder on or before the fifteenth day of each calendar month for the preceding calendar month. Each licensee, as a condition precedent to operating a liquor store in the city, shall execute and deliver to the city a bond in the amount of one thousand dollars (\$1,000.00) and said bond shall be payable to the city; shall be executed by a surety company duly authorized and qualified to do business in the state; and said bond shall be conditioned that the licensee shall pay to the city all inspection fees due hereunder. The aforesaid surety bond shall be in a form approved by the city attorney. (2005 Code, § 8-121)

8-122. Inspection fee reports. The city administrator shall prepare and make available to each licensee sufficient forms for the monthly report of the inspection fees payable by each licensee; and the city administrator is authorized to promulgate reasonable rules and regulations to facilitate the reporting and collection of inspection fees and to specify the records to be kept by each licensee. (2005 Code, § 8-122)

8-123. Records to be kept by licensee. In addition to any records specified in the rules and regulations promulgated by the city administrator pursuant to the preceding section, each licensee shall keep on file at such licensee's liquor store the following records:

(1) Original invoices required under § 8-122 above for all alcoholic beverages bought by or otherwise supplied to the licensee;

(2) The original receipts for any alcoholic beverage returned by such licensee to any wholesaler; and

(3) An accurate record of all alcoholic beverage lost, stolen, damaged, given away, or disposed of other than by sale, and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverage involved, and, where known, the name of the person or persons receiving the same. All such records shall be preserved for a period of at least two (2) years unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. (2005 Code, § 8-123)

8-124. Inspections. The city administrator is authorized to examine the books, papers, and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city administrator and the chief of police and any other police officer of the city is authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers, and records of a licensee by the city administrator or the inspection and examination of the premises of a liquor store shall be a violation of this chapter and the city commissioner of finance shall forthwith report such violation to the state alcoholic beverage commission with the request that appropriate action be taken to revoke the license of the offending licensee. (2005 Code, § 8-124)

8-125. Effect of failure to report and pay inspection fee. The failure to pay the inspection fee and to make the required reports accurately within the time prescribed in this chapter shall, at the sole discretion of the city board, be cause for the taking of such action as is necessary to suspend the offending licensee's license for as much as thirty (30) days, or to revoke said license. (2005 Code, § 8-125)

8-126. Use of funds derived from inspection fees. All funds derived from the inspection fees imposed herein shall be paid into the general fund of the city. The city shall defray all expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the city in investigating and inspecting licensees and applicants and in seeing that all provisions of this chapter are observed; and the board finds and declares that the amount of these inspecting fees is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for said purposes. The inspection fee levied by this chapter shall be in addition to any general gross receipts, sales or other general taxes applicable to the sale of alcoholic beverages, and shall not be a substitute for any such taxes. (2005 Code, § 8-126)

8-127. Other violations by licensee. Any licensee who in the operation of such licensee's liquor store, shall violate any federal statute, state statute, or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages, shall be guilty of a violation of the provisions of this chapter. (2005 Code, § 8-127)

8-128. Licensee's responsibility. Each licensee shall be responsible for all acts of such licensee's officers, stockholders, directors, employees, agents, and representatives, so that any violation of this chapter by any officer, stockholder, director, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (2005 Code, § 8-128)

8-129. Initial applications. In making the initial certification of good moral character for the first five (5) persons to be licensed hereunder, the board of mayor and commissioners will consider all applications filed before a closing date to be fixed by it, and after eliminating the applicants who do not possess the qualifications required by the state statutes, by the state rules and regulations and by this chapter, it will select from among the remaining applicants the names of the applicants to whom a certificate of good moral character will be issued to the Tennessee Alcoholic Beverage Commission for issuance of a license to operate a liquor store hereunder, without regard to the order or time in which applications are filed by a vote of the majority of the entire membership of the board of mayor and commissioners.

No certificate of good moral character shall be issued for the operation of a retail liquor store when, in the opinion of the board of mayor and commissioners expressed by a majority thereof, the operation of such business at the location described in the application would be in too close proximity to a church or a school, or would be otherwise inimical or detrimental to public interest. (2005 Code, § 8-133)

8-130. Violations and penalty. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and shall be fined a minimum of fifty dollars (\$50.00) for each such violation. Any licensee violating any provision of this chapter shall be subject to having his license suspended or revoked for such violation as provided in this chapter, or by the state statutes, or by the state rules and regulations. All police officers of the city are hereby empowered and required to take into possession any alcoholic beverages which have been received by, or are in the possession of, or are being transported by, any person in violation of the state statutes, the state rules and regulations, the federal statutes, and this chapter; and such contraband alcoholic beverage shall be disposed of as provided by the state statutes. (2005 Code, § 8-129)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Term of office; vacancies; chairman and secretary.
- 8-203. Meetings of the beer board.
- 8-204. Record of beer board proceedings to be kept.
- 8-205. Requirements for beer board quorum and action.
- 8-206. Powers and duties of the beer board.
- 8-207. "Beer" defined.
- 8-208. Permit required for engaging in beer business.
- 8-209. Privilege tax.
- 8-210. Applications for beer permits; investigation; assistance by chief of police.
- 8-211. Recommendations to board of mayor and commissioners.
- 8-212. Investigations of permit or license holders charged with certain violations; action by board of mayor and commissioners.
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- 8-223. Approval or rejection of application.
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- 8-225. When recorder may issue license.
- 8-226. Restrictions on certain licenses.

¹Municipal code references

Minors in beer places, etc.: title 11, chapter 1.
Tax provisions: title 5.

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).

- 8-227. License to be displayed.
- 8-228. Permit to be held by owner.
- 8-229. Sale of beer for both on-premises and off-premises consumption.
- 8-230. Reports by police; hearings on violations.
- 8-231. Possession of federal license without city license.
- 8-232. Retailers to purchase from wholesalers licensed by city.
- 8-233. Return of permit after change in ownership.
- 8-234. Prohibited conduct or activities by beer permit holders.
- 8-235. Suspension and revocation of beer permits.
- 8-236. Civil penalty in lieu of suspension.
- 8-237. Solicitations by home delivery services prohibited.
- 8-238. Reports required of licensees.
- 8-239. Hours when packaged beer for off-premises consumption can be sold.
- 8-240. Hours when sale, distribution, etc., prohibited for on-premises consumption.
- 8-241. Unauthorized use or consumption of beverages on premises.

8-201. Beer board established. There is hereby established a board of three (3) members to be known as "The Beer Board of the City of South Pittsburg, Tennessee." (2005 Code, § 8-201)

8-202. Term of office; vacancies; chairman and secretary. All members of the beer board shall serve at the pleasure of the board of mayor and commissioners. In event of a vacancy the mayor, subject to the approval of the board of mayor and commissioners, may fill the same. A chairman and a secretary shall be elected annually by the board from among its members. All members of the beer board shall serve without compensation. (2005 Code, § 8-202)

8-203. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman; provided he gives reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (2005 Code, § 8-203)

8-204. 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. (2005 Code, § 8-204)

8-205. 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. (2005 Code, § 8-205)

8-206. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (2005 Code, § 8-206)

8-207. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101.

8-208. 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), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of South Pittsburg. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (2005 Code, § 8-208)

8-209. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate, or association engaged in the sale, distribution, storage, or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of South Pittsburg, 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. (2005 Code, § 8-209)

8-210. Applications for beer permits; investigation; assistance by chief of police. The board shall make an investigation of each applicant for a permit to sell beer to determine the character of the applicant and to determine whether or not the applicant is a suitable person to be issued a license or permit and the location a suitable place within the area authorized as places for the sale of beer. The board may call upon the chief of police to make any investigation and to furnish any information necessary with regard to any applicant. It shall be the duty of the chief of police to cooperate with the beer

board in making investigations of applicants and their prospective locations. (2005 Code, § 8-210)

8-211. Recommendations to board of mayor and commissioners. The beer board shall make its report and recommendations to the board of mayor and commissioners as to whether or not a permit shall be issued or denied to the applicant. The board of mayor and commissioners may, notwithstanding the recommendation of the beer board, in its discretion, either grant or refuse a permit or license. All applications for the renewal of a license shall be made and referred to the beer board for its recommendation and report the same as upon an original application. (2005 Code, § 8-211)

8-212. Investigations of permit or license holders charged with certain violations; action by board of mayor and commissioners. When any holder of a license or permit for the sale of beer is charged with the violation of any of the laws of the state, this code or other ordinances of the city or for any reasons set out in § 8-234 of this code, it shall be the duty of the beer board to make an investigation. In order that the beer board may make necessary investigations, it is hereby given authority to issue subpoena for witnesses to appear before it for the purpose of giving testimony. The chairman is authorized to administer the oath to witnesses. The beer board, after its investigation, shall make its report and recommendation to the board of mayor and commissioners as to whether or not the license shall be suspended or revoked. The board of mayor and commissioners may, notwithstanding the recommendation of the beer board, in its discretion, either revoke or suspend the license of any licensee. (2005 Code, § 8-212)

8-213. Notification of beer board when license is revoked. When a license for the sale of beer has been revoked, it shall be the duty of the city recorder to furnish the beer board with the name and location of the licensee. (2005 Code, § 8-213)

8-214. Violations to be reported to beer board; police, etc., to cooperate with board. It shall be the duty of the police officers and inspectors to report to the beer board any violations of the laws of the state, this code or other ordinances, rules, and regulations of the city by any licensee. All police officers and inspectors and the recorder shall cooperate with and furnish all information requested by the beer board. (2005 Code, § 8-214)

8-215. Distribution, sale, etc., lawful. It shall be lawful to distribute, sell, transport, store, and possess beer, including ales or other malt liquors of alcoholic content of not more than that definition appearing in *Tennessee Code Annotated*, § 57-5-101 in the city, subject to all the regulations, limitations, and

restrictions provided by *Tennessee Code Annotated*, title 57, chapter 5, and subject to the provisions of this title. (2005 Code, § 8-215)

8-216. Areas of city wherein permits for sale of beer may be issued. No beer permit shall be issued for any business located outside of the following areas.

(1) Sales for consumption on the premises. In buildings abutting the east or west sidewalks of Cedar Avenue from Third Street on the south to First Street on the north; and in buildings fronting not more distant than thirty feet (30') from the right-of-way boundary lines on the east and west sides of U.S. Highway No. 72 from First Street on the south to the intersection therewith of the Jaycee Boat Dock Street or road on the north.

Provided, however, in all instances the proposed location of applicant's business in this area must be such as to conform with the provisions of § 8-220 herein.

Temporary or special occasion beer permits may be issued to eligible nonprofit, charitable or political organizations for sales for consumption on the premises of the city's Princess Theater, and on such public streets and sidewalks as may be approved in advance by the board of mayor and commissioners. Additionally, said premises are recognized as approved locations for events for which the Tennessee Alcoholic Beverage Commission may issue special occasion liquor by the drink licenses provided that applicants for such special occasion license shall have first obtained approval for such use by the Board of Mayor and Commissioners of the City of South Pittsburg, Tennessee.

(2) Sales of package beer for off-premises consumption. (a) In buildings facing Cedar Avenue from the south corporate boundary line on the south to First Street on the north; in buildings fronting not more distant than thirty feet (30') from the right-of-way boundary lines on the east and west sides of U.S. Highway No. 72 from First Street on the south to the north corporate boundary line on the north; and in buildings located on the east side of Elm Avenue between Second and Third Streets, and

(b) In buildings located to include an area in buildings fronting not more distant than thirty feet (30') from the right-of-way boundary lines on the east and west sides of U.S. Highway No. 72 from the former south city limits of the City of South Pittsburg on the north to the Tennessee-Alabama line on the east side of said highway; and on the west side of said to the northeast corner of the State Line Shopping Center area and thence following the boundary lines of said shopping area so as to include the entire area of the said State Line Shopping Center. (2005 Code, § 8-216, as amended by Ord. #793, Oct. 2018)

8-217. Maximum quantity to be possessed without a license. It shall be unlawful for any person not a licensed retail dealer in beer to have in

his or her possession or on his or her premises more than three (3) cases of beer at any one (1) time; provided, that a person or group of persons may purchase and possess more than three (3) cases to be used exclusively for non-recurring social functions, and retail dealers may sell such person or group of persons more than three cases at one (1) time if such person or group of persons presents to such retailer a permit signed by the chief of police specifying the amount to be purchased and the time within which such purchase shall be made. A retailer making such sales shall return or mail the permit authorizing the sale to the chief of police by 12:00 noon of the next succeeding business date after such sale, noting thereon the quantity sold and time of sale. It shall be unlawful for any licensed retail dealer in beer to sell or deliver to any person more than three (3) cases of such beverages on any one (1) day, other than as above provided. (2005 Code, § 8-217)

8-218. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. A single permit may be issued for on-premises and off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (2005 Code, § 8-218)

8-219. Classes of consumption permits. Permits issued by the beer board shall consist of three (3) classes:

(1) Class 1 on-premises permit. A Class 1 on-premises permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 on-premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) Be primarily a restaurant or an eating place;
- (b) Be able to seat a minimum of thirty (30) people, including children, in booths and at tables, in addition to any other seating it may have; and
- (c) Have all seating in the interior of the building under a permanent roof.

In addition, the monthly beer sales of any establishment which holds a Class 1 on-premises permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which for two (2) consecutive months or for any three (3) months in any calendar year has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked. All holders of a Class 1 beer permit shall report its monthly beer sales,

including the percentage of beer sales to its gross sales to the city not later than the fifteenth (15th) of the month next following on such forms as shall from time to time be required by the city to assure that the Class 1 permit holder is in compliance with this section. The city will keep these forms in the permit holder's individual business tax file so that the confidentiality required by *Tennessee Code Annotated*, § 67-4-722 may be maintained. If the monthly sales for any Class 1 beer permit holder exceeds fifty percent (50%) of the monthly gross sales of the permit holder for either three (3) consecutive months during one (1) calendar year or for any four (4) months in one (1) calendar year, the Class 1 beer permit of such permit holder may be suspended or revoked by the beer board. In the alternative, and in lieu of suspension or revocation of the permit, the beer board has the discretion to impose a civil penalty in lieu of suspension in accordance with the terms of § 8-236 herein. Any such permit holder that fails to provide such reports timely for two (2) consecutive or more months in any calendar year shall have its beer permit revoked.

(2) Class 2 on-premises permit. Other establishments making application for a permit to sell beer for consumption on the premises, which do not qualify, or do not wish to apply for, a Class 1 on-premises permit, but which otherwise meet all other regulations and restrictions in this chapter, shall apply for a Class 2 on-premises permit.

(3) Class 3 off-premises permit. An off-premises permit shall be issued for the consumption of beer only off the premises. To qualify for an off-premises permit, an establishment must, in addition to meeting the other regulations in this chapter:

- (a) Be a grocery store or a convenience type market; and
- (b) In either case, be primarily engaged in the sale of grocery and personal and home care and cleaning articles, but may also sell gasoline.

8-220. Limitation on number of permits. There shall be no limit on the number of Class 1 on-premises permits and off-premises permits. There shall be no more than three (3) Class 2 on-premises permits issued and outstanding at any time. (2005 Code, § 8-220)

8-221. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored, or sold to the nearest point on the property line of the

hospital, school, church, or other place of public gathering. No permit shall be suspended, revoked, or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993, unless beer is not sold, distributed or manufactured at that location during any continuous six-month period after January 1, 1993. (2005 Code, § 8-221)

8-222. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (2005 Code, § 8-222)

8-223. Approval or rejection of application. The board of mayor and commissioners shall consider each application filed, and shall grant or refuse the license and permit, according to its best judgment, under all the facts and circumstances, and endorse its action on the application. The action of the board in granting or refusing a license and permit shall be final, except as it may be subject to review at law. (2005 Code, § 8-223)

8-224. Location of premises to be designated. The location of the premises at which the business of the licensee will be conducted shall be designated in his license, permit and application therefor. (2005 Code, § 8-224)

8-225. When recorder may issue license. The city recorder shall issue no license until the application therefor has been approved by the board of mayor and commissioners and he has been instructed by the board to issue same. (2005 Code, § 8-225)

8-226. Restrictions on certain licenses. (1) Hotels. Licenses may be issued to hotels for sale and consumption on the premises in rooms where meals or lunches are served and in guests' rooms.

(2) Clubs and lodges. Licenses may be issued to clerks or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee, and which are organized and exist for purposes other than the sale of beverages under such licenses.

(3) Billiard and poolrooms. No license shall be issued for any place used to carry on the business of playing at pool or billiards, unless for sales in the front of such place in a regularly licensed restaurant or lunchroom separated

from the part of the building in which the billiard or poolroom is located by a partition or wall. (2005 Code, § 8-226)

8-227. License to be displayed. The license issued under this chapter shall be posted in a conspicuous place on the premises of the licensee. (2005 Code, § 8-227)

8-228. Permit to be held by owner. A permit shall be valid:

(1) Only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner;

(2) Only for a single location except where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in his discretion operate some or all of such businesses pursuant to the same permit, and a permit cannot be transferred to another location. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business; and

(3) Only for a business operating under the name identified in the permit application. (2005 Code, § 8-228)

8-229. Sale of beer for both on-premises and off-premises consumption. A business can sell beer for both on-premises and off-premises consumption at the same location pursuant to one (1) permit. (2005 Code, § 8-229)

8-230. Reports by police; hearings on violations. The chief of police and police officers shall notify the beer board of any violations of any of the provisions of this chapter by any person holding a license and permit, and shall notify any licensee violating any of the provisions of this chapter or other law or ordinance relating thereto to appear before the board of mayor and commissioners at the next regular meeting thereof following any such violation to show cause why his license and permit should not be revoked. At such meeting such licensee shall be entitled to a public hearing and to introduce evidence in his behalf. The burden shall be upon the licensee at such hearing to show that he has not been guilty of such violation or any other offense which would justify the revocation of his license and permit. (2005 Code, § 8-230)

8-231. Possession of federal license without city license. The possession by any person of any federal license to sell alcoholic beverages without the corresponding city license required shall be prima facie evidence in all cases that the holder of such federal license is selling beer in violation of the provisions of this chapter. (2005 Code, § 8-231)

8-232. Retailers to purchase from wholesalers licensed by city.

It shall be unlawful for any person holding a license for the sale at retail of beer to purchase beer from anyone other than a wholesaler or distributor licensed to carry on business in the city. (2005 Code, § 8-232)

8-233. Return of permit after change in ownership.

A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business name; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of business name. (2005 Code, § 8-233)

8-234. 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, or any crime involving moral turpitude within the past ten (10) years.
- (2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.
- (3) Make or allow any sale of beer to a person under twenty-one (21) years of age.
- (4) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (5) Make or allow any sale of beer to any intoxicated person.
- (6) Allow drunk persons to loiter about his premises.
- (7) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than the definition appearing in *Tennessee Code Annotated*, § 57-5-101.
- (8) Allow pool or billiard playing in the same room where beer is sold and/or consumed.
- (9) Fail to provide and maintain separate sanitary toilet facilities for men and women. (2005 Code, § 8-234, modified)

8-235. Suspension and 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 application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the board. (2005 Code, § 8-235)

8-236. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (2005 Code, § 8-236)

8-237. Solicitations by home delivery services prohibited. Any person who is engaged in accepting orders and making deliveries of beer in the city shall be known and considered as operating a home delivery service of beer, and it shall be unlawful for any person engaged in the business of home delivery to solicit, either in person or by telephone, the sale or delivery of beer, or to make sales or deliveries except on voluntary calls or orders from customers. (2005 Code, § 8-237)

8-238. Reports required of licensees. (1) Wholesalers. Each wholesaler or wholesale distributor of beer in the city shall file with the city recorder the name of the brewer such wholesaler or wholesale distributor represents, together with the name of the beer sold at wholesale or distributed in the city. In event of a change of breweries such wholesaler or distributor shall immediately furnish the city recorder with the name of any additional brewery represented.

(2) Operators of vehicles. Any person operating a vehicle either for himself or a distributor, who sells beer to any person other than licensed retailers shall make a report in writing of such sale, giving the name and address of the person to whom the sale was made, which shall be delivered or mailed to the chief of police by 12:00 noon of the following business day. (2005 Code, § 8-238)

8-239. Hours when packaged beer for off-premises consumption can be sold. Packaged beer for off-premises consumption can be sold twenty-four (24) hours per day seven (7) days per week. (2005 Code, § 8-239)

8-240. Hours when sale, distribution, etc. prohibited for on-premises consumption. Sale of beer for on-premises consumption shall be made pursuant to *Tennessee Code Annotated*, § 57-3-406(e) and (h) (2005 Code, § 8-240, modified)

8-241. Unauthorized use or consumption of beverages on premises. No licensee whose license authorizes sale for consumption off the premises only shall sell for consumption on the premises.

No sale for consumption on the premises shall be made by any licensee except where meals or lunches are regularly served unless otherwise authorized by his license.

No licensee shall allow any liquors or other beverages of greater alcoholic content than the definition appearing in *Tennessee Code Annotated*, § 57-5-101 to be brought on his premises or consumed thereon, nor shall the possession or sale of liquor be permitted on such premises. (2005 Code, § 8-241)

CHAPTER 3

LIQUOR BY THE DRINK

SECTION

8-301. Definition of alcoholic beverages.

8-302. Consumption of alcoholic beverages on premises.

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.

8-304. Annual privilege tax to be paid to the city administrator.

8-305. Concurrent sale of liquor by the drink and beer.

8-306. Advertisement of alcoholic beverages.

8-301. Definition of alcoholic beverages. As used in this chapter, unless the context indicates otherwise "alcoholic beverages" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. "Beer" shall be defined pursuant to *Tennessee Code Annotated*, § 57-5-101. (2005 Code, § 8-301)

8-302. Consumption of alcoholic beverages on premises. *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of the City of South Pittsburg, Tennessee. It is the intent of the mayor and the city commission that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in South Pittsburg, Tennessee, the same as if said code sections were copied herein verbatim. (2005 Code, § 8-302)

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by *Tennessee Code Annotated*, § 57-4-301 for the City of South Pittsburg General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of South Pittsburg on alcoholic beverages for consumption on the premises where sold. (2005 Code, § 8-303)

8-304. Annual privilege tax to be paid to the city administrator. Any person, firm, corporation, joint stock company, syndicate, or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of South Pittsburg shall remit annually to the city administrator the appropriate tax described in § 8-303. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12)

month period from the original dated to the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (2005 Code, § 8-304)

8-305. Concurrent sale of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of South Pittsburg, pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall, notwithstanding the provisions of §§ 8-216 to 8-219 of the Municipal Code of the City of South Pittsburg, Tennessee, qualify to receive a beer permit from the City of South Pittsburg. (2005 Code, § 8-305)

8-306. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission. (2005 Code, § 8-306)

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.**¹**CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, SOLICITORS, ETC.
3. TAXICABS.

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

9-101. "Going out of business" sales.

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person after advertising a "going out of business" sale adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (2005 Code, § 9-101)

¹Municipal code references

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

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.¹

SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Restrictions on peddlers, street barkers, and solicitors.
- 9-206. Restrictions on transient vendors.
- 9-207. Display of permit.
- 9-208. Suspension or revocation of permit.
- 9-209. Expiration and renewal of permit.
- 9-210. Solicitations on public streets.
- 9-211. Prevention of congestion and promotion of safety.
- 9-212. Common theme and advancement of purpose.
- 9-213. Violations and penalty.

9-201. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

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

(2) "Solicitor" means any person, firm, or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for religious purposes" means any person, firm, corporation, or organization who or which solicits contributions from the public, either on the streets of the city or from door to door, business to business, place to place, or from street to street, for any religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-801.

dollars (\$10.00). No organization shall qualify as a "religious" organization unless the organization meets one of the following conditions:

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

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

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

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

(5) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

(6) "Transient vendor¹" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. "Transient vendor" does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those

¹State law reference

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

The definition of "transient vendors" is taken from *Tennessee Code Annotated*, § 62-30-101(3). Note also that *Tennessee Code Annotated*, § 67-4-709(a) prescribes that transient vendors shall pay a tax of fifty dollars (\$50.00) for each fourteen (14) day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in *Tennessee Code Annotated*, § 67-4-709(b).

premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months. (2005 Code, § 9-201, modified)

9-202. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (2005 Code, § 9-202)

9-203. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter. (2005 Code, § 9-203)

9-204. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the city administrator by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for religious purposes or as a solicitor for subscriptions:

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

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

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

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

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

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

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

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

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the city administrator, the city

administrator shall submit to the chief of police a copy of the application form and the permit. (2005 Code, § 9-204, modified)

9-205. Restrictions on peddlers, street barkers, and solicitors. No peddler, street barker, solicitor, or solicitor for subscriptions shall:

- (1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the city;
- (2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic;
- (3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind;
- (4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city; and
- (5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (2005 Code, § 9-205, modified)

9-206. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares, or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (2005 Code, § 9-206)

9-207. Display of permit. Each peddler, street barker, solicitor, or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (2005 Code, § 9-207, modified)

9-208. Suspension or revocation of permit. (1) Suspension by the city administrator. The permit issued to any person or organization under this chapter may be suspended by the city administrator for any of the following causes:

- (a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or
- (b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and commissioners. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and commissioners, after notice and hearing, for the same causes set out in subsection (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the city administrator in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (2005 Code, § 9-208)

9-209. Expiration and renewal of permit. The permit of peddlers, solicitors, and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (2005 Code, § 9-209, modified)

9-210. Solicitations on public streets. Roadblocks for solicitation shall be subject to the following conditions.

(1) Persons wishing to solicit contributions on public streets shall first obtain a permit from the city administrator. No more than one (1) permit shall be issued at a time. There shall be no charge for such permit.

(2) All parties involved in soliciting contributions shall wear a fluorescent vest or other clothing approved by the board.

(3) Persons under eighteen (18) years of age shall be accompanied by an adult.

(4) Police officers may stop persons who are soliciting in violation of this section.

(5) Violations of this section shall be punishable under the general penalty clause of this municipal code. (2005 Code, § 9-210)

9-211. Prevention of congestion and promotion of safety. No peddler, street barker, or solicitor for subscriptions shall be permitted to operate in a congested area where such operation might impede, inconvenience, endanger or detrimentally affect the health, morals, comfort, safety, convenience and welfare of the public. For the purpose of this section, the objective judgment of the city administrator exercised in good faith, shall be deemed conclusive as to whether the area is congested and the safety of the public impeded,

inconvenienced, endangered or detrimentally affected. (2005 Code, § 9-211, modified)

9-212. Common theme and advancement of purpose. In order to advance a common theme and/or to promote the underlying purpose of a recognized festival or parade days in the city, the city shall regulate the goods, wares and/or merchandise sold by peddlers, street barkers, solicitors, or solicitors for subscriptions to prevent an overabundance of pedestrian or vehicular traffic at such festival or parade days so as to protect the health, morals, security, and general welfare of the citizens of the city and those attending such festival or parade days. In making decisions regarding the issuance of permits, the city administrator may take into account the number of such peddlers, street barkers, solicitors, or solicitors for subscriptions, and the types of goods, wares and/or merchandise to be sold in order to prevent an overabundance of the same type of goods, wares and/or merchandise being sold and to promote a variety of goods, wares and/or merchandise sold in order to appeal to a wider segment of the citizenry, thereby increasing the likelihood that a wider segment of the citizenry will attend such recognized festivals or parade days within the city, to promote the integrity and theme of such festival or parade days thereby promoting the general welfare of the citizens of the City of South Pittsburg, Tennessee. For the purpose of this section, the objective judgment of the city administrator, exercised in good faith, in deciding upon the issuance of permits, shall be deemed conclusive in the regulation of goods, wares and/or merchandise to prevent an overabundance of like kind goods, wares and/or merchandise being sold at recognized festivals or parade days in the city. (2005 Code, § 9-212, modified)

9-213. Violations and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances. (2005 Code, § 9-213)

CHAPTER 3

TAXICABS

SECTION

- 9-301. Definitions.
- 9-302. Certificate of public convenience and necessity required.
- 9-303. Application for certificate.
- 9-304. Public hearing.
- 9-305. Liability insurance required.
- 9-306. License fees and permit fees for certificates.
- 9-307. Transfer of certificates.
- 9-308. Suspension and revocation of certificates.
- 9-309. Taxicab driver's license.
- 9-310. Application for driver's license.
- 9-311. Consideration of application.
- 9-312. Issuance of license; duration; annual fee.
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- 9-322. Additional passengers.
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- 9-325. Prohibition of drivers.
- 9-326. Prohibition of passengers.
- 9-327. Open stands; establishment; use.
- 9-328. Call box stands; establishment; use.
- 9-329. Prohibition of other vehicles.
- 9-330. Taxicab service.
- 9-331. Manifests.
- 9-332. Accidents.
- 9-333. Police department; duty to enforce chapter.
- 9-334. Waiver of search warrant for search of taxicabs.

9-301. Definitions. The following words and phrases when used in this chapter have the meanings as set out herein:

(1) "Board" means the Board of Mayor and Commissioners of the City of South Pittsburg, Tennessee.

(2) "Call box stand" means a place alongside a street, or where the city recorder has authorized a holder of a certificate of public convenience and necessity to install a telephone or call box for taking calls and the dispatching of taxicabs.

(3) "Certificate" means a certificate of public convenience and necessity issued by the city recorder, authorizing the holder thereof to conduct a taxicab business in the city.

(4) "City" means the City of South Pittsburg, Tennessee.

(5) "Cruising" means the driving of a taxicab on the streets, alleys, or public places of the city in search of, or soliciting prospective passengers for hire.

(6) "Driver's license" means the permission granted by the city recorder to a person to drive a taxicab upon the streets of the city.

(7) "Holder" means a person to whom a certificate of public convenience and necessity has been issued.

(8) "Manifest" means a daily record prepared by a taxicab driver of all trips made by said driver showing time and place of origin, destination, number of passengers, and the amount of fare of each trip.

(9) "Open stand" means a public place alongside the curb of a street or elsewhere in the city which has been designated by the city recorder as reserved exclusively for the use of taxicabs.

(10) "Person" includes an individual, a corporation or other legal entity, a partnership, and any unincorporated association.

(11) "Rate card" means a card issued by the city recorder for display in each taxicab which contains the rates of fare then in force.

(12) "Taxicab" means a motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of less than six (6) persons and not operated on a fixed route.

(13) "Taximeter" means a meter instrument or device attached to a taxicab which measures mechanically the distance driven and the waiting time upon which the fare is based.

(14) "Waiting time" means the time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act or fault of a passenger or passengers. (2005 Code, § 9-301)

9-302. Certificate of public convenience and necessity required.

No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the city without having first obtained a certificate of public convenience and necessity from the city recorder. (2005 Code, § 9-302)

9-303. Application for certificate. An application for a certificate shall be filed with the city recorder upon forms provided by the city. The

application shall be verified under oath and shall furnish the following information:

- (1) The name and address of the applicant.
- (2) The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to said judgments.
- (3) The experience of the applicant in the transportation of passengers.
- (4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate.
- (5) The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals.
- (6) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.
- (7) Such further information as the city recorder of the city may require. (2005 Code, § 9-303)

9-304. Public hearing. Upon the filing of an application for a certificate, the city recorder shall fix a day and hour for a public hearing thereon to be held in his office. Such date shall be not less than five (5) days nor more than ten (10) days after date of filing of the application. Notice of the date and hour of the hearing shall be given to the applicant simultaneously with the filing of the application. Not less than five (5) days notice of the hearing shall be given to all persons to whom certificates have theretofore been issued by the city. Notice shall also be given the general public by posting notice of the date and hour of the hearing in the front window of the city hall on the date the application is filed. At the time of the hearing the city recorder shall examine under oath the applicant, and any witnesses he may offer in his behalf, upon the question of necessity from the standpoint of public welfare and necessity for the issuance of a certificate to applicant and of applicant's fitness and qualifications to receive and hold a certificate under the terms, intents and purposes of this chapter. If persons appear at the hearing to protest the issuance of the certificate, the city recorder shall likewise examine them under oath upon the grounds and reasons of protest. At the hearing, the city recorder shall make a concise summary of the testimony of each person who testifies and cause the same to be signed by such person, and, when so done and completed, the same shall constitute the entire record of the facts of the hearing, and shall remain on file in the city recorder's office. At the conclusion of the hearing, the city recorder shall announce to those in attendance the date and hour of submission of his report upon the hearing to the board. The date of submission of the report to the next regular or special meeting of the board shall not be less than five (5) days after such public hearing. Simultaneously, the city recorder shall post a notice of the date and hour of submission of his report to the board in a front window of the city hall. Within three (3) days thereafter, the city recorder shall prepare in writing his report and recommendations to the board and shall hold the same

on file in his office during regular office hours and open for inspection of same by the applicant, any and all parties protesting, and members of the general public. In his report to the board, the city recorder shall set out:

- (1) The name of the applicant.
- (2) Applicant's fitness and ability to comply with the provisions of this chapter.
- (3) The necessity for such service from the standpoint of the public convenience and welfare.
- (4) The names of the person or persons testifying in applicant's behalf and the names of the person or persons testifying adverse to him.
- (5) The names of any persons not appearing at the hearing but who have filed protests in writing.
- (6) Recommendation as to granting or rejecting of the application.

To this report the city recorder shall attach the factual record made up at the hearing. The applicant, or any person appearing at the hearing in protest of the granting of the application, or any member of the public may file and present in writing exceptions to the report of the city recorder at the meeting of the board to which the same shall be presented. Upon consideration of the report of the city recorder, and any exceptions that may have been filed thereto, the board shall proceed to accept or reject the same and cause its action to be entered in the minutes. If, upon consideration of the report and record presented it, the board finds and orders that the application should be granted, then the city recorder shall issue and deliver to the applicant the certificate herein provided for. (2005 Code, § 9-304)

9-305. Liability insurance required. No certificate shall be issued or continued in operation unless there is in full force and effect at all times, an insurance policy issued by some reliable and approved insurance company qualified to do business in the State of Tennessee for each vehicle authorized in the amount of one hundred thirty thousand dollars (\$130,000.00) for bodily injury to any one person; in the amount of three hundred fifty thousand dollars (\$350,000.00) for bodily injury to more than one (1) person which is sustained in the same accident, and fifty thousand dollars (\$50,000.00) for property damage resulting from any one (1) accident. Said insurance shall inure to the benefit of any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a holder, his servants or agents. Said insurance policy or policies shall be filed in the office of the city recorder. (2005 Code, § 9-305)

9-306. License fees and permit fees for certificates. No certificate shall be issued or continued in operation unless the holder has paid the regular annual license required otherwise for operation of a taxicab business and, in addition, paid a special permit fee to the city recorder of one dollar (\$1.00) for each vehicle to be operated hereunder, said permit fee to be in addition to the

regular privilege license, and to be deposited into the general fund by the city recorder. (2005 Code, § 9-306)

9-307. Transfer of certificates. No certificate may be sold, assigned, mortgaged, or otherwise transferred without the consent of the board. (2005 Code, § 9-307)

9-308. Suspension and revocation of certificates. A certificate issued under the provisions of this chapter may be revoked or suspended by the city recorder if the holder thereof has:

- (1) Violated any of the provisions of this chapter.
- (2) Discontinued operations for more than ten (10) days.
- (3) Has violated any ordinances of the city or the laws of the United States or the State of Tennessee, the violation of which reflect unfavorably on the fitness of the holder to offer public transportation.

Prior to any suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard. (2005 Code, § 9-308)

9-309. Taxicab driver's license. No person shall operate a taxicab for hire upon the streets of the city, and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab licensed by the city shall be so driven for hire, unless the driver of said taxicab shall have first obtained and shall have then in force a Class D driver's license with a for-hire endorsement issued by the State of Tennessee and the driver's license hereinafter provided for.¹ (2005 Code, § 9-309)

9-310. Application for driver's license. An application for a taxicab driver's license shall be filed with the city recorder on forms provided by the city. Such application shall be verified under oath and shall contain the following information:

- (1) The names and addresses of four (4) residents of the city who have known the applicant for a period of two (2) years and who will vouch for the sobriety, honesty, and general good character of the applicant.
- (2) The experience of the applicant in the transportation of passengers.
- (3) The educational background of the applicant.
- (4) A concise history of his employment.

Each application shall be accompanied by a certificate from a reputable physician of the city certifying that, in his opinion, the applicant is not afflicted with any disease or infirmity which might make him an unsafe and

¹State law reference

Tennessee Code Annotated, § 55-50-102.

unsatisfactory driver. At the time the application is filed the applicant shall pay to the city recorder the sum of twenty dollars (\$20.00), which shall be deposited into the general fund. (2005 Code, § 9-310)

9-311. Consideration of application. The city recorder, upon consideration of the application and the reports and certificate required to be attached thereto, shall approve or reject the application. If the application is rejected the applicant may request a personal appearance before the board to offer evidence why his application should be reconsidered. (2005 Code, § 9-311)

9-312. Issuance of license; duration; annual fee. Upon approval of an application for a taxicab driver's license the city recorder shall issue a license to the applicant which shall bear the name, address, color, age, signature and photograph of the applicant. Such license shall be in effect for the remainder of the calendar year. A license for every calendar year thereafter shall be issued upon the payment of twenty dollars (\$20.00) unless the license for the preceding year has been revoked. (2005 Code, § 9-312)

9-313. Display of license. Every driver licensed under this chapter shall post his driver's license in such a place as to be in full view of all passengers while such driver is operating a taxicab. (2005 Code, § 9-313)

9-314. Suspension and revocation of license. The city recorder is hereby given the authority to suspend any driver's license issued under this chapter for such driver's failing or refusing to comply with the provisions of this chapter. Such suspension shall last for a period of not more than sixty (60) days. The city recorder is also given authority to revoke any driver's license for failure to comply with the provisions of this chapter. However, a license may not be revoked unless the driver has received notice and has had an opportunity to present evidence in his behalf. (2005 Code, § 9-314)

9-315. Vehicles must be approved. Prior to the use and operation of any vehicle under the provisions of this chapter such vehicle shall be thoroughly examined and inspected by the police department and found to comply with such reasonable rules and regulations as may be prescribed by the board. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the board shall deem necessary therefor. When the police department finds that a vehicle has met the standards established by the board, the department shall issue a report to the city recorder to that effect, which report shall also state the authorized seating capacity of the vehicle. (2005 Code, § 9-315)

9-316. Periodic inspections. Every vehicle operating under this chapter shall be periodically inspected by members of the police department at

such intervals as shall be established by the direction of the chief of police to insure the continued maintenance of safe operating conditions. (2005 Code, § 9-316)

9-317. Vehicles must be kept in a clean and sanitary condition.

Every vehicle operating under this chapter shall be kept in a clean and sanitary condition according to rules and regulations promulgated by the board. (2005 Code, § 9-317)

9-318. Designation of taxicabs. Each taxicab shall bear on each side of the outside, in painted letters not less than two inches (2") nor more than four inches (4") in height, the name of the owner and, in addition, may bear an identifying design approved by the city recorder. No vehicle covered by the terms of this chapter shall be licensed when its color scheme, identifying design, monogram, or insignia shall, in the opinion of the city recorder, conflict with or imitate that used on a vehicle or vehicles already operating under this chapter in such a manner as to mislead or tend to deceive or defraud the public. If, after a license and permit or certificate has been issued for a taxicab hereunder, the color scheme, identify such manner as to be misleading or tend to deceive the public, the license, permit, or certificate covering such taxicab or taxicabs shall be suspended or revoked. (2005 Code, § 9-318)

9-319. Receipts. The driver of any taxicab shall, upon demand of any passenger, render to such passenger a receipt for the amount charged either by a mechanically printed receipt or by a specially prepared receipt upon which shall be the name of the taxicab owner, the taxicab license number or motor number, the meter reading or charges, and the date of the transportation. (2005 Code, § 9-319)

9-320. Refusal of passenger to pay legal fare. It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this chapter after having hired the same. It shall also be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service. (2005 Code, § 9-320)

9-321. Receipt and discharge of passengers on sidewalk only. Drivers of taxicabs shall not receive or discharge passengers in the roadway. They shall pull up to the right-hand sidewalk as nearly as possible, or in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers. Upon one-way streets, passengers may be discharged at either the right or left-hand sidewalk, or side of the roadway in the absence of a sidewalk. (2005 Code, § 9-321)

9-322. Additional passengers. No driver of an engaged taxicab shall permit any other person to occupy or ride in said taxicab, unless the person or persons first employing the taxicab shall consent to the acceptance of such additional passenger or passengers. (2005 Code, § 9-322)

9-323. Restriction on number of passengers. No driver shall permit more than five (5) persons to be carried in a taxicab as passengers. A child in arms shall not be counted as a passenger. (2005 Code, § 9-323)

9-324. Refusal to carry orderly passengers prohibited. No driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this chapter to do so. (2005 Code, § 9-324)

9-325. Prohibition of drivers. It shall be a violation of this chapter for any driver of a taxicab to engage in selling or transporting intoxicating liquors or solicit business for any house of ill repute or use his vehicle for any purpose other than the transportation of passengers. (2005 Code, § 9-325)

9-326. Prohibition of passengers. It shall be unlawful for the driver of a taxicab to permit any person or persons to stand or sit on any outside part of such vehicle while the same is in motion, and it shall be unlawful for any person to stand or sit on any outside part of such vehicle when the same is in motion. (2005 Code, § 9-326)

9-327. Open stands; establishment; use. The board is hereby authorized and empowered to establish open stands in such place or places upon the streets of the city as it deems necessary for the use of taxicabs operated in the city. Said board shall not create an open stand without taking into consideration the need for such stands by the companies and the convenience of the general public. The board shall prescribe the number of taxicabs that shall occupy such open stands. The board shall not create an open stand in front of any place of business where the abutting property owners object to the same or where such stand would tend to create a traffic hazard.

Open stands shall be used by the different drivers on a first come, first served basis. The driver shall pull on to the open stand from the rear and shall advance forward as the cabs ahead pull off. Drivers shall stay within five feet (5') of their cabs. They shall not solicit passengers or engage in loud or boisterous talk while at an open stand. Nothing in this chapter shall be construed as preventing a passenger from boarding the cab of his choice that is parked at open stands. (2005 Code, § 9-327)

9-328. Call box stands; establishment; use. The board is hereby authorized and empowered to establish call box stands upon the streets of the

city in such places as in its discretion it deems proper. A holder desiring to establish a call box stand must make written application to the board. The applicant must attach to the application the written approval of the abutting property owners of said space, consenting to the creation of such stand. Upon filing of the application the police department shall make an investigation of the traffic conditions at said place and shall thereafter file their written recommendation with the board. The board shall then either grant or refuse the application. When a call box stand has been established as herein provided, it shall be used solely by the holder to whom the same was granted and his agents and servants and no other holder shall be permitted to use the same. However, no holder shall obtain a permit for more than one (1) such closed stand within the limits of Cedar and Elm Avenues between First (1st) and Seventh (7th) Streets. When the call box stand is in a parking meter area the holder shall pay a rental of ten dollars (\$10.00) per month, in advance.

A holder operating a call box stand as provided for in this chapter shall be allowed to have on duty at such stand a starter or other employee for the purpose of assisting in the loading or unloading of passengers from cabs, for receiving calls and dispatching cabs, and for soliciting passengers at such stand. The words "at such stand" shall mean that part of the sidewalk immediately adjacent to and of equal length with such call box stand. It shall be unlawful for any such starter or other employee to go beyond the area herein designated for the purpose of soliciting passengers or assisting them in boarding such cabs. (2005 Code, § 9-328)

9-329. Prohibition of other vehicles. Private or other vehicles for hire shall not at any time occupy the space upon the streets that has been established as either open stands or call box stands. (2005 Code, § 9-329)

9-330. Taxicab service. All persons engaged in the taxicab business in the city and operating under the provisions of this chapter shall render an over-all service to the public desiring to use taxicabs. Holders of permits or certificates of public convenience and necessity shall maintain a central place of business and keep the same open twenty-four (24) hours a day for the purpose of receiving calls and dispatching cabs. They shall answer all calls received by them for services inside the corporate limits of the city as soon as they can do so, and, if said services cannot be rendered within a reasonable time they shall then notify the prospective passengers how long it will be before the said call can be answered and give the reason therefor. Any holder who shall refuse to accept a call anywhere in the corporate limits of the city at any time when such holder has an available cab or cabs, or who shall fail or refuse to give over-all service, shall be deemed a violator of this chapter and the permit or certificate granted to such holder shall be revoked at the discretion of the city recorder. (2005 Code, § 9-330)

9-331. Manifests. Every driver shall maintain a daily manifest upon which is recorded all trips made each day, showing time and place of origin and destination of each trip and amount of fare. All such completed manifests shall be returned to the owner by the driver at the conclusion of his tour of duty. The forms for such manifests shall be furnished to the driver by the owner and shall be of a character approved by the city recorder.

Every holder of a permit or certificate of public convenience and necessity shall retain and preserve all driver's manifests in a safe place for at least six (6) months following the date of same, and said manifests shall be available to the police department. (2005 Code, § 9-331)

9-332. Accidents. All accidents arising from or in connection with the operation of taxicabs which result in death or injury to any person, or in damage to any vehicle or to any property in an amount exceeding the sum of twenty-five dollars (\$25.00) shall be reported within twenty-four (24) hours from the time of occurrence to the police department in a form of report to be furnished by said department. (2005 Code, § 9-332)

9-333. Police department; duty to enforce chapter. The police department of the city is hereby given the authority and is instructed to watch and observe the conduct of holders and drivers operating under this chapter. Upon discovering a violation of the provisions of this chapter, the police department shall report the same to the city recorder who shall then take appropriate action. (2005 Code, § 9-333)

9-334. Waiver of search warrant for search of taxicabs. By his application for a certificate, each owner and/or operator of a taxicab, and likewise by his application for a driver's license, each driver, conclusively warrants and guarantees that each and all of the vehicles owned by him or operated and driven by him as taxicabs will not be used in any manner, way, or method, to aid, abet, encourage, or assist in the violation of laws prohibiting pandering, prostitution, or possession, sale, or transportation of intoxicating beverages. To the end that this warranty and guaranty may be effective, any person granted a certificate hereunder, or granted a driver's license hereunder, thereby waives the issuance and service of a search warrant as a condition precedent to the search of his taxicab or any taxicab driven by him, by any member of the police department of the city. He also agrees that, in any criminal prosecution that may follow as a result of such search, he will not plead the lack of a search warrant as a defense. These provisions shall relate only to prosecutions and trial of cases before the city recorder for violations of ordinances of the city. (2005 Code, § 9-334)

TITLE 10**ANIMAL CONTROL**¹**CHAPTER**

1. IN GENERAL.
2. DOGS AND CATS.
3. DANGEROUS DOGS.

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

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Impoundment of animals and fowls running at large.
- 10-107. Violations and penalty.

10-101. Running at large prohibited.² It shall be unlawful for any person owning or being in charge of any cows, sheep, horses, rabbits, mules, goats, or any chickens, ducks, geese, turkeys, or other animals or fowl, either domesticated or non-domesticated, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits.

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions under this chapter, whether or not the disposition includes returning the animal to its owner. (2005 Code, § 10-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within one thousand feet (1,000') of any residence or place of business without the approval of the South Pittsburg Chief of Police. The South Pittsburg Chief of Police shall grant such approval only when in his sound judgment the keeping of such animals and/or fowls under the circumstances as set forth in the application for

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

²See also § 10-203 in this code for provisions prohibiting dogs specifically from running at large.

the permit will not injuriously affect the public health and welfare. (2005 Code, § 10-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (2005 Code, § 10-103)

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

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (2005 Code, § 10-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (2005 Code, § 10-105)

10-106. Impoundment of animals and fowls running at large.¹ Any animal or fowl found running at large within the corporate limits shall be impounded by the health officer or police department. Immediately thereupon a notice of such impoundment shall be given to the owner if known. If the owner is not known or cannot be determined upon diligent inquiry, a notice describing the impounded animal or fowl shall be posted in at least three (3) public places within the corporate limits. The notice of impoundment shall advise the owner that he must claim his impounded animal or fowl and pay reasonable advertising, impoundment, and maintenance fees within five (5) days or such animal or fowl will be humanely destroyed, sold, or otherwise disposed of by the city.

The proceeds of any sale under this section shall be applied first to the payment of reasonable advertising, impoundment, and maintenance fees. The balance, if any, shall be paid to the owner of the animal or fowl, if known, otherwise to the general fund of the city. (2005 Code, § 10-107)

10-107. Violations and penalty. Any violation of any section of this chapter shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense. Each day the violation shall continue shall constitute a separate offense. (2005 Code, § 10-108)

¹This section does not apply to dogs. See § 10-206 for provisions dealing specifically with impoundment of dogs.

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs and cats to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs or cats to be securely restrained.
- 10-205. Noisy dogs or cats prohibited.
- 10-206. Impoundment and/or destruction of dogs or cats.
- 10-207. Animals prohibited from city recreational parks.
- 10-208. Vaccination penalty.
- 10-209. Vicious dogs.
- 10-210. Violations and penalty.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat within the corporate limits without having the same duly vaccinated against rabies and registered in accordance with the provisions of the Tennessee Anti-Rabies Law (*Tennessee Code Annotated*, §§ 68-8-101 to 68-8-114). (2005 Code, §-10-201, modified)

10-202. Dogs and cats to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog or cat which does not wear a tag evidencing the vaccination and registration required by the preceding section. (2005 Code, § 10-202)

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog or cat owned by him or under his control to run at large within the corporate limits. (2005 Code, § 10-203)

10-204. Vicious dogs or cats to be securely restrained. It shall be unlawful for any person to own or keep any dog or cat known to be vicious or dangerous unless such dog or cat is so confined and/or otherwise securely restrained as reasonably to provide for the protection of other animals and persons. (2005 Code, § 10-204)

10-205. Noisy dogs or cats prohibited. No person shall own, keep, or harbor any dog or cat which, by loud and frequent barking, whining, or howling,

¹State law reference

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

or other noises, annoys or disturbs the peace and quiet of any neighborhood. (2005 Code, § 10-205)

10-206. Impoundment and/or destruction of dogs or cats. Dogs or cats running at large will be impounded by city police officers and/or other designated city employees. If the owner of an impounded dog or cat can be identified after diligent inquiry, such owner shall be notified by a postcard addressed to his last known address to appear within five (5) days and redeem his dog or cat by paying a pound fee or his dog or cat will be destroyed or otherwise disposed of in a humane manner. The pound fee referred to in this section shall be determined based on the following schedule:

Upon any impoundment of any dog or cat of the owner, the impoundment fee shall be fifty dollars (\$50.00) per day.

If the dog or cat is not wearing a tag, the dog or cat shall be destroyed unless legally claimed by the owner within five (5) days.

When, because of its viciousness or apparent infection with rabies, a dog or cat found running at large cannot be impounded in reasonable safety, such dog or cat may be summarily destroyed by any police officer or other authorized city employee. (2005 Code, § 10-206)

10-207. Animals prohibited from city recreational parks. It shall be unlawful for any person to bring into any city recreational park any dog, cat, or other animal, whether or not such animal is restrained, or to allow any dog, cat, or other animal owned by such person to be brought into any city recreational park. This section shall not apply to any dog which is trained for and used by any person who is visually impaired. (2005 Code, § 10-207)

10-208. Vaccination penalty. Pursuant with *Tennessee Code Annotated*, § 68-8-109, all impounded dogs and cats must be vaccinated before release. A penalty of ten dollars (\$10.00) will be charged to dog and cat owners of impounded unvaccinated dogs and cats for escorting the animal to a veterinary clinic for vaccination prior to release. (2005 Code, § 10-208)

10-209. Vicious dogs.¹ (1) Definition of terms:

(a) "Owner" means any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog, or the parents or guardian of a child claiming ownership.

(b) "Vicious dog" means:

¹See cases stating the state's authority to regulate vicious dogs: *State of Tennessee v. Denver Hartly*, 15 TAM 23-2 (Tenn. S. Ct. 1990), and *Darnell v. Shappard*, 3 S.W.2d 661 (1928).

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

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

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

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

(v) Any pit bull terrier, which shall be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Bull Terrier.

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

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

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

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

(5) Dog fighting. No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for

the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.

(6) Insurance. Owners of vicious dogs must within thirty (30) days of the effective date of this section provide proof to the city clerk of public liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), insuring the owner for any personal injuries inflicted by his or her vicious dog.

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

10-210. Violations and penalty. Any violation of any section of this chapter shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense. Each day the violation shall continue shall constitute a separate offense. (2005 Code, § 10-207)

CHAPTER 3

DANGEROUS DOGS

SECTION

- 10-301. Authorization.
- 10-302. Purpose and intent.
- 10-303. Definitions.
- 10-304. Determination of status.
- 10-305. Potentially dangerous dogs.
- 10-306. Dangerous dogs.
- 10-307. Vicious dogs.
- 10-308. Immediate impoundment.
- 10-309. Continuation of dangerous dog.
- 10-310. Reckless owner.
- 10-311. Appeals.
- 10-312. Violations and penalty.

10-301. Authorization. This chapter is enacted pursuant to the general police power, the authorities granted to cities and towns by the Tennessee State Constitution, *Tennessee Code Annotated*, and the Charter for the City of South Pittsburg, Tennessee. (Ord. #828, June 2022)

10-302. Purpose and intent. The purposes of this chapter are to promote the public health, safety, and general welfare of the citizens of the City of South Pittsburg, Tennessee. (Ord. #828, June 2022)

10-303. Definitions. When used in this chapter, words have their common meaning and in addition the following words, terms, and phrases, and their derivations have the following meaning:

(1) "Animal control officer" means any person employed or appointed by the city who is authorized to investigate and enforce violations relating to animal control or cruelty under the provisions of this chapter, including but not limited to the chief of police or officers of the city's police department.

(2) "At large" means a dog that is not on its owner's property and not leashed.

(3) "Bite injury" means any contact between an animal's mouth and teeth and the skin of a bite victim which causes visible trauma, such as a puncture wound, laceration, or other piercing of the skin.

(4) "Dangerous dog" means any dog that has caused a bite injury and is not a vicious dog.

(5) "Director" means the director of the department of animal control, or the city's police chief if such department has not been established.

(6) "Domestic animal" means an animal of a tamed species commonly kept as pets and includes livestock.

(7) "Enclosure" means a fenced or walled area having a fence or wall height of at least six feet (6') suitable to prevent entry of young children and suitable to confine a dog.

(8) "Impoundment" means seizing and confining a dog by any police officer, animal control officer or any other public officer under the provisions of this chapter.

(9) "Muzzle" means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of a dog that prevents the dog from biting any person or other animal and that does not interfere with its respiration.

(10) "Owner" means any person, partnership, or corporation having a right of property in an animal, or who keeps or harbors a dog, or who has it in his/her/its care, or acts as its custodian, or who knowingly permits a dog to remain on any premises occupied by him, her or it.

(11) "Potentially dangerous dog" means a dog that while at large:

(a) Behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or domestic animal, or

(b) Causes injury to a domestic animal.

(12) "Provocation" means any action or activity, whether intentional or unintentional, which would be reasonably expected to cause a normal dog in similar circumstances to react in a manner similar to that shown by the evidence.

(13) "Sanitary condition" means a condition of good order and cleanliness to minimize the possibility of disease transmission.

(14) "Serious physical injury" means disfigurement, protracted impairment of health, or impairment of the function of any bodily organ.

(15) "Vicious dog" means a dog that without provocation or justification bites or attacks a person and causes serious physical injury or death or is declared vicious under this title. (Ord. #828, June 2022)

10-304. Determination of status. (1) The animal control officer may find and declare a dog potentially dangerous, dangerous, or vicious if the officer has probable cause to believe that the dog falls within the definition of "vicious dog," "dangerous dog" or "potentially dangerous dog." The finding must be based upon:

(a) The written complaint of a person who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of "vicious dog," "dangerous dog" or "potentially dangerous dog"; or

(b) Dog bite reports filed with the animal control officer as required by city ordinance or state law; or

- (c) Actions of the dog witnessed by any animal control officer or law enforcement officer; or
 - (d) Other substantial evidence admissible in court.
- (2) The declaration shall be in writing, and shall be served by the animal control officer:
 - (a) On the owner if known using one (1) of the following methods:
 - (i) Regular mail to the owner's last known address, or by certified mail directed to the owner at the owner's last known address; or
 - (ii) Personally; or
 - (iii) If the owner cannot be located by one (1) of the first two (2) methods, by publication in a newspaper of general circulation and posting a notice on the property of the owner;
 - (b) Where the owner is not known publication in a newspaper of general circulation.
- (3) The declaration shall contain the following information:
 - (a) Name and address of the owner of the dog if known and if not known that fact.
 - (b) A description of the dog.
 - (c) Whereabouts of the dog.
 - (d) Facts upon which the declaration is based.
 - (e) Restrictions placed upon the dog and, when the owner is not known, the intended disposition of the dog.
 - (f) Penalties for violation of the restrictions, including possibility of destruction of the animal and fine and imprisonment of owner.
 - (g) Availability of a hearing to contest the declaration by submitting a written request to the Municipal Court of the City of South Pittsburg within fifteen (15) days of receipt of the declaration or if notice is given by publication or posting within fifteen (15) days of the earlier of the date the notice first appears in the newspaper or the property is posted.
- (4) A dog may be declared dangerous under this section if the dog has within a twelve (12) month period attacked and killed a domestic animal on more than one (1) occasion. For purposes of this subsection only, a domestic animal does not include any feral animal or does not apply where the attack was upon a domestic animal that was at large or upon a domestic animal that was tormenting or attacking the dog.
- (5) Dogs shall not be declared dangerous, potentially dangerous or vicious if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, provoking or assaulting the dog or has, in the past, been observed or reported to have tormented, abused,

provoked or assaulted the dog or was committing or attempting to commit a crime.

(6) Notice. When notice is given by regular mail to the owner's last known address, notice is effective on the third day after the notice was placed in the mail, postage prepaid, to the owner's last known address. When notice is given by certified mail, notice is effective when received; provided however, if certified mail delivery has been refused, notice is effective by publication or posting and whenever notice is accomplished by publication or posting the notice is effective and deemed received on the earlier of the day the property is posted or the newspaper is published. (Ord. #828, June 2022)

10-305. Potentially dangerous dogs. (1) No person shall maintain a potentially dangerous dog without a license or otherwise in violation of this section.

(2) No person owning, harboring or having the care or custody of a potentially dangerous dog shall permit the dog to go at large or leave the owner's property unless the dog is securely leashed and muzzled.

(3) Spaying/neutering. All owners of potentially dangerous dogs must spay or neuter the dog and provide proof of sterilization to the director of animal control within fourteen (14) days of the animal control officer declaring the dog potentially dangerous.

(4) In addition to any other penalty for a violation of this section, a court may revoke the authority of a person to keep a potentially dangerous dog within the city.

(5) The owner of a potentially dangerous dog may apply to the director of animal control to have the declaration waived after two (2) years upon meeting the following conditions:

(a) The owner and offending dog has no subsequent violations of this chapter; and

(b) The owner of the dog has complied with all the provisions of this chapter for a period of two (2) years; and

(c) The owner provides proof to the director of animal control of successful completion of a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), or veterinary behaviorist, certified through the American College of Veterinary Behaviorists (ACVB) or equivalent training.

If the director finds sufficient evidence that the dog owner has complied with all conditions in this subsection, the application shall be forwarded to the court to rescind the potentially dangerous dog declaration. (Ord. #828, June 2022)

10-306. Dangerous dogs. (1) No person shall maintain a dangerous dog in violation of this section.

(2) Keeping of a dangerous dog. Once a dog has been declared dangerous, it shall be kept in a secure enclosure subject to the following requirements:

(a) Leash. No person having charge, custody, control or possession of a dangerous dog shall allow the dog to exit its enclosure unless such dog is securely attached to a leash not more than four feet (4') in length and walked by a person who is both over the age of eighteen (18) and who has the physical ability to restrain the dog at all times. No owner shall keep or permit a dangerous dog to be kept on a chain, rope or other type of leash outside its enclosure unless a person capable of controlling the dog is in physical control of the leash.

(b) Muzzle. It shall be unlawful for any owner or keeper of a dangerous dog to allow the dog to be outside of its proper enclosure unless it is necessary for the dog to receive veterinary care or exercise. In such cases, the dog shall wear a properly fitted muzzle to prevent it from biting humans or other animals. Such muzzle shall not interfere with the dog's breathing or vision.

(c) Confinement. Except when leashed and muzzled as provided in this section, a dangerous dog shall be securely confined in a residence or confined in a locked pen or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, light, and ventilation. The enclosed structure shall be kept in a clean and sanitary condition and shall meet the following requirements:

(i) The structure must have secure sides and a secure top, or all sides must be at least six feet (6') high;

(ii) The structure must have a bottom permanently attached to the sides or the sides must be embedded not less than one foot (1') into the ground; and

(iii) The structure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own.

(d) Indoor confinement. No dangerous dog shall be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such dog shall be kept in a house or structure when the windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(e) Signs. All owners, keepers or harborers of dangerous dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog."

(f) Liability insurance, surety bond. Subject to judicial discretion, the owner of a dangerous dog may be required to present to the department of animal control proof that the owner has procured liability insurance or a surety bond in the amount of not less than one

hundred thousand dollars (\$100,000) covering any damage or injury that may be caused by such dangerous dog. The policy shall contain a provision requiring that the city be notified immediately by the agent issuing it if the insurance policy is canceled, terminated or expires. The liability insurance or surety bond shall be obtained prior to the issuing of a permit to keep a dangerous dog. The dog owner shall sign a statement attesting that the owner shall maintain and not voluntarily cancel the liability insurance policy during the twelve (12) month period for which a permit is sought, unless the owner ceases to own or keep the dog prior to the expiration date of the permit period.

(g) Identification photographs. All owners, keepers, or harborers of dangerous dogs must within ten (10) days of determination provide to the animal control two (2) color photographs of the registered dog clearly showing the color and approximate size of the dog.

(h) Microchip. All owners, keepers or harborers of dangerous dogs must within ten (10) days of determination microchip the dog and provide microchip information to the director of animal control to register the dog as dangerous.

(i) Spaying/neutering. All owners, keepers or harborers of dangerous dogs must within ten (10) days of determination spay or neuter the dog and provide proof of sterilization to the director of animal control.

(j) Sale or transfer of ownership prohibited. Sale - no person shall sell, barter or in any other way dispose of a dangerous dog registered with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog, provided that the owner of a dangerous dog may sell or otherwise dispose of a registered dog to persons who do not reside within the city. Owner must disclose dog's status as a dangerous dog to anyone to whom the owner transfers custody or care of the dog.

(k) Notification of escape. The owner or keeper of a dangerous dog shall notify the department of animal control immediately if such dog escapes from its enclosure or restraint and is at large. Such immediate notification shall also be required if the dog bites or attacks a person or domestic animal.

(l) Failure to comply. It shall be a separate offense to fail to comply with the restrictions in this section. Any dog found to be in violation of this section shall be subject to immediate seizure and impoundment pursuant to § 10-308. In addition, failure to comply with the requirements and conditions set forth in this chapter shall result in the revocation of the dog's license and the permit providing for the keeping of such dog.

(3) A dangerous dog owner may apply to the director of animal control to have the declaration waived after three (3) years upon meeting the following conditions:

- (a) The owner and offending dog has no subsequent violations of this chapter; and
- (b) The owner of the dog has complied with all the provisions of this chapter for a period of three (3) years; and
- (c) The owner provides proof to the director of animal control of successful completion of a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), or veterinary behaviorist, certified through the American College of Veterinary Behaviorists (ACVB) or equivalent training.

If the director finds sufficient evidence that the dog has complied with all conditions in this subsection, and has sufficient evidence that the dog's behavior has changed, the application shall be forwarded to the court to rescind the dangerous dog declaration. (Ord. #828, June 2022)

10-307. Vicious dogs. It shall be unlawful to keep, possess, or harbor a vicious dog within the city limits.

(1) The provisions of this section shall not apply to a police dog being used to assist one (1) or more law enforcement officers acting in an official capacity.

(2) The director of animal control may order a dog euthanized that has been declared vicious.

(3) The owner of a dog that the director declares to be vicious may appeal that determination to the city's municipal court within fifteen (15) days of the declaration. If an appeal is timely filed, the order to destroy the animal is suspended pending the final determination of the court, except when the director declares that public health and safety require the immediate destruction of the animal as in the case of rabies.

(4) The owner of a vicious dog shall be liable for and shall pay all costs associated with impoundment, removal, or euthanasia of said animal. The owner shall pay any other associated costs incurred. (Ord. #828, June 2022)

10-308. Immediate impoundment. (1) A dog suspected of being dangerous or vicious may be immediately impounded when the director of animal control or the director's designee determines such immediate impoundment is necessary for the protection of public health or safety.

(b) If the owner of the dog impounded under subsection (1) of this section is not reasonably ascertainable at the time of impoundment, the director shall immediately notify the owner by mail sent to the owner's last known address postage prepaid which upon the passage of three (3) days be deemed complete or by personal service within five (5) business days after the dog's impoundment.

(3) The notice of impoundment shall inform the owner of the dog that the owner may request, in writing, a hearing to contest the impoundment. Upon receipt of the notice of impoundment either through personal service or by mail (receipt is complete three (3) days after mailing to the last known address of owner postage prepaid), the owner has five (5) business days to request a hearing by serving on the director of animal control a written request for the hearing.

(4) Upon request by the owner of the dog for a hearing under subsection (3), a hearing must be held within ten (10) business days after receipt of the request. Notice of the date, time and location of the hearing shall be provided by regular mail to the dog owner requesting the hearing. The impoundment hearing shall determine if the dog poses a risk to public health and safety by clear and convincing evidence or if the dog could be released. If the trier of fact determines the dog does not pose a risk to public health and safety, the dog shall be immediately released back to the owner pending further proceedings either administrative or judicial.

(5) The owner must pay all of the costs of the impoundment and upon request must post sufficient funds to cover the anticipated costs for continued impoundment. In the alternative, the owner may propose a suitable facility where the dog could be contained and maintained at the sole cost of the owner, and upon approval of the director, the dog may be impounded at that facility under the terms and conditions set by the director. Failure to post funds sufficient to pay for the costs of impoundment constitutes a waiver of any rights the owner may have to a hearing under this section.

(6) If the owner timely appeals an impoundment or seizure, the owner may also seek review of the director's determination of boarding costs by filing an appeal with the city administrator within five (5) days after the director issues a demand for prepayment. The city administrator must review the director's decision within two (2) business days after receiving the appeal. The owner must provide the city administrator with information sufficient to show that requiring prepayment of boarding costs would be a serious financial hardship on the owner. The city administrator may ask the owner to provide additional information at an informal hearing conducted in person or by telephone. The director must not require the owner to prepay any boarding costs pending the city administrator's decision. The city administrator may make any decision the director could have made such as requiring the owner to prepay boarding costs retroactive to the initial boarding date of the animal, posting a bond, or placing the animal in a suitable facility at the owner's sole expense. The owner may also ask the municipal court to review the director's decision regarding prepayment of boarding costs as part of its review of the underlying appeal.

(7) If the owner is successful in appealing the decision to impound the dog, the director must refund to the owner any costs paid for the impoundment. (Ord. #828, June 2022)

10-309. Continuation of dangerous dog declaration. Any dog that has been declared dangerous or vicious by any agency or department of this city, another municipality, county, or state shall be subject to the provisions of this chapter. The person owning or having custody of any dog designated as potentially dangerous or dangerous by any municipality, county, or state government shall notify the department of animal control of the dog's address and conditions of maintenance within ten (10) days of moving the animal into the City of South Pittsburg. The restrictions and conditions of maintenance of any dog declared dangerous by this city, another municipality, county, or state shall remain in force while the dog remains in the city. No dog declared a potentially dangerous, dangerous, or vicious dog by any other designation agency or department of another municipality, county, or state based solely on size, breed, mix of breeds, or appearance shall be subject to this section. (Ord. #828, June 2022)

10-310. Reckless dog owner. (1) Any person convicted of:

(a) A violation of this chapter three (3) or more times in a twenty-four (24) month period; or

(b) A violation of this chapter two (2) or more times in any five (5) year period, shall be declared a reckless dog owner.

(2) The director of animal control shall issue a notification of the declaration of reckless dog owner to the person with the following:

(a) Name and address of the person subject to the declaration, and;

(b) The description, violation, and conviction that led to the declaration, and;

(c) The name, description, and licensenumber of all dogs subject to the effects of the declaration, and;

(d) Instructions on appealing the declaration to the city's municipal court:

(3) Once declared a reckless dog owner, the city licenses of all dogs owned by the person shall be revoked, and the person shall not own, keep, possess, or harbor a dog for a period of five (5) full years from the date of the declaration.

(4) A person declared to be a reckless dog owner may apply to the director of animal control to have the declaration waived after two (2) years upon meeting the following conditions:

(a) The person has no subsequent violations of this chapter; and

(b) The person has complied with all the provisions of this chapter for a period of two (2) years; and

(c) The person provides proof to the director of animal control of successful completion of a program designed to improve the person's understanding of dog ownership responsibilities and based upon an

interview with the director of animal control establishes that understanding.

If the director finds sufficient evidence that the person has complied with all conditions in this subsection, the director may rescind the reckless owner declaration subject to conditions that can help to ensure no future violations. If the director declines to remove the declaration, the person aggrieved may appeal to the city's municipal court within thirty (30) days of that decision. Upon appeal, the person must provide clear and convincing proof that ownership of a dog in the future will be handled responsibly and not in violation of any law or ordinance. (Ord. #828, June 2022)

10-311. Appeals. (1) Any person aggrieved by a decision of the director of animal control to declare a dog potentially dangerous, dangerous or vicious, or to declare a person a reckless dog owner, or to impound a dog, or to have a dog euthanized may appeal the decision to the city's municipal court within ten (10) days of the decision unless a different period is provided under this chapter. A person aggrieved by a decision of the city's municipal court may appeal that decision to the courts in accordance with and pursuant to state law and the rules of court.

(2) If the director of animal control orders a dog to be euthanized for public health or safety reasons other than for rabies, the owner may immediately appeal that decision to the courts and upon a showing of good cause the court may suspend the order to euthanize the dog until the appeal is finally resolved. (Ord. #828, June 2022)

10-312. Violations and penalty. (1) Any person violating this chapter is guilty of a civil violation and must pay a fine of not more than fifty dollars (\$50.00) per offense.

(2) If a court finds that a person has violated this chapter, in addition to any fine imposed, the court may order abatement of the violation and order restitution be paid to any person injured as a result of the violation up to the maximum amount allowed by law. (Ord. #828, June 2022)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. INTERFERENCE WITH TRAFFIC.
4. LOITERING AND CRUISING.

CHAPTER 1

ALCOHOL²

SECTION

11-101. Drinking beer, etc., on streets, etc.

11-102. Minors in beer places.

11-103. Violations and penalty.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place, unless the place has a beer permit and license for on-premises consumption. (2005 Code, § 11-101)

11-102. Minors in beer places. No minor under twenty-one (21) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (2005 Code, § 11-102)

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

¹Municipal code references

Animal control: title 10.

Residential and utilities: title 12.

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

Traffic offenses: title 15.

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Anti-noise regulations.

11-202. Violations and penalty.

11-201. 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) 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.

(b) Yelling, shouting, hooting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M. or at any time or place so as to annoy or disturb the quiet, comfort or repose of any persons in any hospital, dwelling, hotel, or other type of residence or of any person in the vicinity.

(c) 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.

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

(e) 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 municipal authorities.

(f) 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 weekdays, 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.

(g) 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.

(h) 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.

(i) 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.

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

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

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

(b) Repair of streets, etc. Excavations or repairs of bridges, streets or highways at night, by or on behalf of the city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day. (2005 Code, § 11-202, modified)

11-203. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 3

INTERFERENCE WITH TRAFFIC

SECTION

11-301. Interference with traffic.

11-3402. Violations and penalty.

11-301. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (2005 Code, § 11-401)

11-302. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 4

LOITERING AND CRUISING

SECTION

11-401. Definitions.

11-402. Places where loitering and cruising prohibited.

11-403. Violations and penalty.

11-401. Definitions." (1) "Cruising" as used in this chapter is defined as the continual, repeated, and aimless operation of a motor vehicle back and forth, through, around or within the parking areas, and private roadways and other areas of any property after 8:00 P.M. and until the following sunrise other than for the purpose of entering or leaving a parking space where the vehicle has been parked while the driver or passenger(s) is or was visiting the shopping center, business, or recreational facility. The term "loitering" as used in this chapter is defined as willfully loafing, lounging, lingering, consorting or remaining idle, with no apparent purpose, either with others or alone, on a public street, public highway, public sidewalk, public parking lot, or any other public place or building when such behavior tends to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians, or when such behavior interferes with the free exercise of commercial trade or other lawful activity in, on or near any such public place.

(2) "Loitering" is also defined as the act of parking a vehicle in a commercial parking area without any intent to shop or otherwise conduct business at the commercial establishments for which such parking area is used. "Loitering" is further defined as any behavior in a public place which manifests the purpose of selling or purchasing illegal drugs or effecting a pattern of criminal gang activity, and behavior which is intended to establish control over identifiable areas, to intimidate others from entering those areas, or to conceal illegal activities. "Loitering" does not include any activity by a person who passively stands or sits without impeding others' use of such place, and in no manner intimidates to uses aggressive behavior. (2005 Code, § 11-601--11-602,)

11-403. Places where loitering and cruising prohibited. It shall be unlawful to loiter or cruise in any public place, including but not limited to, sidewalks, public streets and highways, public parking lots, school playgrounds and public parks and recreation areas. No posting of signs is required for the enforcement of this chapter in such public areas. Business owners maintaining parking areas of customer use may post signs in such parking areas giving notice that loitering and cruising is prohibited. Such posting shall provide notice that this chapter shall be effective and may be enforced in the parking areas of such businesses. (2005 Code, § 11-603)

11-403. Violations and penalty. Any person or persons found to be in violation of this chapter in a public place, or private property where a sign is posted as discussed in the preceding section, shall be issued a citation to the South Pittsburgh Municipal Court and shall be subject to a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) plus court costs. Any vehicle left unattended in a commercial parking area, on which a sign is posted as discussed in the preceding section, whose owner or driver is not a legitimate customer, may be removed at the owner's expense. (2005 Code, § 11-604)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. FUEL GAS CODE.
4. RESIDENTIAL CODE.
5. MECHANICAL CODE.
6. ELECTRICAL CODE.
7. ENERGY CONSERVATION CODE.
8. PROPERTY MAINTENANCE CODE.
9. ADMINISTRATIVE HEARING OFFICER.

CHAPTER 1

BUILDING CODE¹

SECTION

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

12-101. Building code adopted. A certain document, one (1) copy of which is on file in the office of the South Pittsburg City Recorder being marked and designated as the *International Building Code*,² 2012 edition, including Appendix Chapter B and excluding chapter 16 sections 1613 through 1623 (see *International Building Code*, section 101.2.1, 2006 edition), as published by the International Code Council, be and is hereby adopted as the building code of the City of South Pittsburg, Tennessee for regulating and governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for supplied utilities and facilities and other physical things and

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said building code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-102 of this chapter. (2005 Code, § 12-101, as amended by Ord. #776, July 2017)

12-102. Modifications. The following sections are hereby revised:

Section 101.1. Insert:	City of South Pittsburg
Section 1612.3. Insert:	City of South Pittsburg
Section 1612.3. Insert:	(Date of Issuance)
Section 3410.2. Insert:	15 days of final passage, 5 days after publication

(2005 Code, § 12-102)

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

12-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

PLUMBING CODE¹

SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Violations and penalty.

12-201. Plumbing code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the *International Plumbing Code*,² 2012 edition, including Appendix Chapter A, as published by the International Code Council, be and is hereby adopted as the plumbing code of the City of South Pittsburg, Tennessee for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said plumbing code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-202 of this chapter. (2005 Code, § 12-201, as amended by Ord. #776, July 2017)

12-202. Modifications. The following sections are hereby revised:

- Section 101.1. Insert: City South Pittsburg
- Section 106.6.2. Insert: "South Pittsburg Building Permit Schedule", Appendix A3
- Section 106.6.3. Insert: 50%, 50%
- Section 108.4. Insert: Offense, dollar amount, number of days
- Section 108.5. Insert: \$50, as prescribed by law
- Section 305.6.1. Insert: 12 inches, 12 inches

¹Municipal code references

Cross-connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

Section 904.1. Insert: 6 inches
(2005 Code, § 12-202)

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

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

FUEL GAS CODE¹

SECTION

- 12-301. Fuel gas code adopted.
- 12-302. Modifications.
- 12-303. Available in recorder's office.
- 12-304. Violations and penalty.

12-301. Fuel gas code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the *International Fuel Gas Code*,² 2012 edition, including Appendix Chapter B and excluding _____, as published by the International Code Council, be and is hereby adopted as the fuel gas code of the City of South Pittsburg, Tennessee for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said fuel gas code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-302 of this chapter. (2005 Code, § 12-301, as amended by Ord. #776, July 2017)

12-302. Modifications. The following sections are hereby revised:

- | | |
|--------------------------|--|
| Section 101.1. Insert: | City of South Pittsburg |
| Section 106.5.2. Insert: | Appropriate Schedule |
| Section 106.5.3. Insert: | 50%, 50% |
| Section 108.4. Insert: | Specify offense, dollar amount, number of days |
| Section 108.5. Insert: | \$50, as prescribed by law |
- (2005 Code, § 12-302)

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

¹Municipal code reference

Gas system administration: title 19, chapter 1.

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

12-304. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable under the general penalty provision of this code, or the license of such person may be revoked, or both fine and revocation of license may be imposed. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 4

RESIDENTIAL CODE

SECTION

- 12-401. Residential code adopted.
- 12-402. Modifications.
- 12-403. Available in recorder's office.
- 12-404. Violations and penalty.

12-401. Residential code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the *International Residential Code*,¹ 2012 edition, as published by the International Code Council, be and is hereby adopted as the residential code of the City of South Pittsburg, Tennessee for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal, and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three (3) stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said residential code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions, and changes, if any, presented in § 12-402 of this chapter. (2005 Code, § 12-401, as amended by Ord. #776, July 2017)

12-402. Modifications. The following sections are hereby revised:

Section R101.1. Insert:	City of South Pittsburg
Section R301.2(I). Insert:	Climatic and Geographic Design Criteria, as specified
Section R313.2	Deleted
Section P2603.6.1. Insert:	All open vent pipes which extend through a roof shall be terminated at least 6 inches above the roof or 3 inches above the anticipated snow accumulation. Building sewers that connect to private sewage disposal systems shall be a

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

minimum of 12 inches below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12 inches below grade.

Section P3103.1. Insert:

All open vent pipes which extend through a roof shall be terminated at least 6 inches above the roof or 3 inches above the anticipated snow accumulation ...

Section 3410.2. Insert:

15 days of final passage, 5 days after publication

(2005 Code, § 12-402, as amended by Ord. #776, July 2017)

12-403. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-404. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code.. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 5

MECHANICAL CODE¹

SECTION

- 12-501. Mechanical code adopted.
- 12-502. Modifications.
- 12-503. Available in recorder's office.
- 12-504. Violations and penalty.

12-501. Mechanical code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the *International Mechanical Code*,² 2012 edition, as published by the International Code Council, be and is hereby adopted as the mechanical code of the City of South Pittsburg, Tennessee for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use, or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said mechanical code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-502 of this chapter. (2005 Code, § 12-501, as amended by Ord. #776, July 2017)

12-502. Modifications. The following sections are hereby revised:

- Section 101.1. Insert: City of South Pittsburg
- Section 106.5.2. Insert: "South Pittsburg Building Permit Schedule ", Appendix A
- Section 106.5.3. Insert: 50%, 50%
- Section 108.4. Insert: Offense, dollar amount, number of days
- Section 108.5. Insert: \$50, as prescribed law

(2005 Code, § 12-502)

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

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

12-504. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 6

ELECTRICAL CODE¹

SECTION

- 12-601. Electrical code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violations and penalty.

12-601. Electrical code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the *ICC Electrical Code – Administrative Provisions*,² 2012 edition, as published by the International Code Council, be and is hereby adopted as the electrical code of the City of South Pittsburg, Tennessee for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of electrical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said electrical code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-702 of this chapter. (2005 Code, § 12-701, as amended by Ord. #776, July 2017)

12-602. Modifications. The following sections are hereby revised:

- Section 101.1. Insert: City of South Pittsburg
- Section 404.2. Insert: Appropriate Schedule

(2005 Code, § 12-702)

12-603. Available in recorder'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 recorder's office and shall be kept there for the use and inspection of the public.

¹Municipal code references

- Fire protection, fireworks, and explosives: title 7.
- Planning and zoning: title 14.
- Streets and other public ways and places: title 16.
- Utilities and services: titles 18 and 19.

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

12-604. Violations and penalty. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 7

ENERGY CONSERVATION CODE

SECTION

- 12-701. Energy conservation code adopted.
- 12-702. Modifications.
- 12-703. Available in recorder's office.
- 12-704. Violations and penalty.

12-701. Energy conservation code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the *International Energy Conservation Code*,¹ 2012 edition, as published by the International Code Council, be and is hereby adopted as the energy conservation code of the City of South Pittsburg, Tennessee for regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting, and power systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said energy conservation code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-802 of this chapter. (2005 Code, § 12-801, as amended by Ord. #776, July 2017)

12-702. Modifications. The following sections are hereby revised:
Section 101.1. Insert: City of South Pittsburg
(2005 Code, § 12-802)

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

12-704. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

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

CHAPTER 8

PROPERTY MAINTENANCE CODE

SECTION

- 12-801. Property maintenance code adopted.
- 12-802. Modifications.
- 12-803. Available in recorder's office.
- 12-804. Violations and penalty.

12-801. Property maintenance code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said *International Property Maintenance Code*,¹ 2012 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the property maintenance code.

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

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

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

12-804. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as

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

herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 9

ADMINISTRATIVE HEARING OFFICER

SECTION

- 12-901. Municipal administrative hearing officer.
- 12-902. Communication by administrative hearing officer and parties.
- 12-903. Appearance by parties and/or counsel.
- 12-904. Pre-hearing conference and orders.
- 12-905. Appointment of administrative hearing officer/administrative law judge.
- 12-906. Training and continuing education.
- 12-907. Jurisdiction not exclusive.
- 12-908. Citations for violations - written notice.
- 12-909. Review of citation - levy of fines.
- 12-910. Party in default.
- 12-911. Petitions for intervention.
- 12-912. Regulating course of proceedings - hearing open to public.
- 12-913. Evidence and affidavits; notice.
- 12-914. Final orders.
- 12-915. Final order effective date.
- 12-916. Collection of fines, judgments and debts.
- 12-917. Judicial review of final order.
- 12-918. Appeal to court of appeals.

12-901. Municipal administrative hearing officer. (1) In accordance with *Tennessee Code Annotated*, title 6, chapter 54, part 10, there is hereby created the office of administrative hearing officer to hear violations of any of the provisions codified in the South Pittsburg Municipal Code relating to building and property maintenance including:

- (a) Building codes found at § 12-101;
- (b) Residential codes found at § 12-401;
- (c) Plumbing codes found at § 12-201;
- (d) Electrical codes § 12-701;
- (e) Gas codes § 12-301;
- (f) Mechanical codes § 12-501;
- (g) Energy codes § 12-801;
- (h) Property maintenance codes § 12-601; and
- (i) All ordinances regulating any subject matter commonly found in the above-described codes.

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

The utilization of the administrative hearing officer shall be at the discretion of the city administrator and shall be an alternative to the enforcement in the City of South Pittsburg Municipal Court.

(2) There is hereby created one (1) administrative hearing officer position to be appointed pursuant to § 12-905 below.

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

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

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in title 6, chapter 54, § 1001, *et seq.*, of the *Tennessee Code Annotated*. (Ord. #783, Nov. 2017)

12-902. Communication by administrative hearing officer and parties. (1) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative hearing officer presiding over a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.

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

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

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

(5) An administrative hearing officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the person received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring

to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) business days after notice of the communication. (Ord. #783, Nov. 2017)

12-903. Appearance by parties and/or counsel. (1) Any party may participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel, or unless prohibited by any provision of law, other representative. (Ord. #783, Nov. 2017)

12-904. Pre-hearing conference and orders. (1) (a) In any action set for hearing, the administrative hearing officer, upon the administrative hearing officer's own motion, or upon motion of one (1) of the parties or such party's qualified representatives, may direct the parties or the attorneys for the parties, or both, to appear before the administrative hearing officer for a conference to consider:

- (i) The simplification of issues;
- (ii) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;
- (iii) The limitation of the number of witnesses; and
- (iv) Such other matters as may aid in the disposition of the action.

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

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

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

(4) If a pre-hearing conference is not held, the administrative hearing officer may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings. (Ord. # 783, Nov. 2017)

12-905. Appointment of administrative hearing officer/administrative law judge. (1) The administrative hearing officer shall

be appointed by the board of mayor and commissioners and serve at the pleasure of the board. Such administrative hearing officer may be hired on a part-time or full-time basis, by contract or by interlocal agreement with one (1) or more eligible municipalities.

- (2) An administrative hearing officer shall be one (1) of the following:
 - (a) Licensed building inspector;
 - (b) Licensed plumbing inspector;
 - (c) Licensed electrical inspector;
 - (d) Licensed attorney;
 - (e) Licensed architect;
 - (f) Licensed engineer; or

- (3) The city may also contract with the administrative procedures division, office of the Tennessee Secretary of State to employ an administrative law judge on a temporary basis to serve as an administrative hearing officer. Such administrative law judge shall not be subject to the training or continuing education requirements of § 6-54-1007(a) and (b). (Ord. #783, Nov. 2017)

12-906. Training and continuing education. (1) Each person appointed to serve as an administrative hearing officer shall, within the six (6) month period immediately following the date of such appointment, participate in a program of training conducted by the University of Tennessee's Municipal Technical Advisory Service (MTAS), or its designee(s). MTAS shall issue a certificate of participation to each person whose attendance is satisfactory.

(2) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. The education required by this section shall be in addition to any other continuing education requirements required for other professional licenses held by the administrative hearing officer(s). No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year. (Ord. #783, Nov. 2017)

12-907. Jurisdiction not exclusive. The power and authority vested in the office of administrative hearing is not exclusive and does not terminate or diminish any other existing municipal power or authority. The board of mayor and commissioners may direct a municipal officer or employee to develop criteria for determining when to exercise administrative enforcement. (Ord. #783, Nov. 2017)

12-908. Citations for violations-written notice. (1) Upon the issuance of a citation for violation of a municipal ordinance referenced in the city's administrative hearing ordinance, the issuing officer shall provide written notice of:

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

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

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

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

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

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

(4) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be transmitted to an administrative hearing officer within two (2) business days of issuance. (Ord. #783, Nov. 2017)

12-909. Review of citation - levy of fines. (1) Upon receipt of a citation issued pursuant to § 12-908, the administrative hearing officer shall, within seven (7) business days of receipt, review the appropriateness of an alleged violation. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine upon the alleged violator in accordance with this section. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances.

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

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

(2) If a fine is levied pursuant to subsection (1), the hearing officer shall set a reasonable period of time to allow the alleged violator to remedy the violation alleged in the citation before the fine is imposed. The remedial period shall be no less than ten (10) or greater than one hundred twenty (120) calendar days, except where failure to remedy the alleged violation in less than ten (10) calendar days would pose an imminent threat to the health, safety or welfare of persons or property in the adjacent area.

(3) Upon the levy of a fine pursuant to subsection (1), the hearing officer shall within seven (7) business days, provide via certified mail notice to the alleged violator of:

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

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

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

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

(5) If an alleged violator demonstrates to the issuing officer's satisfaction that the allegations contained in the citation have been remedied to the issuing officer's satisfaction, the fine levied pursuant to subsection (1) shall not be imposed or if already imposed cease; and the hearing date, if the hearing has not yet occurred, shall be cancelled. (Ord. #783, Nov. 2017)

12-910. Party in default. (1) If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative hearing officer may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.

(2) If the proceedings are conducted without the participation of the party in default, the administrative hearing officer shall include in the final order a written notice of default and a written statement of the grounds for the default. (Ord. #783, Nov. 2017)

12-911. Petitions for intervention. (1) The administrative hearing officer shall grant one (1) or more petitions for intervention if:

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

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

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

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

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

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

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

(3) The administrative hearing officer, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative hearing officer may modify the order at any time, stating the reasons for the modification. The administrative hearing officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties. (Ord. #783, Nov. 2017)

12-912. Regulating course of proceedings - hearing open to public.

(1) The administrative hearing officer shall regulate the course of the proceedings, in conformity with the pre-hearing order, if any.

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

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

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

be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript produced, if any. (Ord. #783, Nov. 2017)

12-913. Evidence and affidavits; notice. (1) In an administrative hearing:

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

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

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

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

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

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

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

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

(ii) Parties must be notified before or during the hearing, or before the issuance of any final order that is based in whole or

in part on facts or material notice, of the specific facts or material noticed and the source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts or material so noticed.

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

The accompanying affidavit of _____ (here insert name of affiant) will be introduced as evidence at the hearing in _____ (here insert title of proceeding). _____ (here insert name of affiant) will not be called to testify orally and you will not be entitled to question such affiant unless you notify _____ (here insert name of the proponent or the proponent's attorney) at _____ (here insert address) that you wish to cross-examine such affiant. To be effective, your request must be mailed or delivered to _____ (here insert name of proponent or the proponent's attorney) on or before _____ (here insert a date seven (7) business days after the date of mailing or delivering the affidavit to the opposing party). (Ord. #783, Nov. 2017)

12-914. Final orders. (1) An administrative hearing officer shall render a final order in all cases brought before his or her body.

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

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

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

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

(6) A final order rendered pursuant to subsection (1) shall be rendered in writing within seven (7) business days after conclusion of the hearing or after

submission of proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.

(7) The administrative hearing officer shall cause copies of the final order under subsection (1) to be delivered to each party. (Ord. #783, Nov. 2017)

12-915. Final order effective date. (1) All final orders shall state when the order is entered and effective.

(2) A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order. (Ord. #783, Nov. 2017)

12-916. Collection of fines, judgments and debts. The city may collect a fine levied pursuant to this section by any legal means available to a municipality to collect any other fine, judgment or debt. (Ord. #783, Nov. 2017)

12-917. Judicial review of final order. (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to *Tennessee Code Annotated*, title 6, chapter 54 , part 10, which shall be the only available method of judicial review.

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

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

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

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the administrative proceeding, the court may order

that the additional evidence be taken before the administrative hearing officer upon conditions determined by the court. The administrative hearing officer may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.

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

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

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

- (a) In violation of constitutional or statutory provisions;
- (b) In excess of the statutory authority of the administrative hearing officer;
- (c) Made upon unlawful procedure;
- (d) Arbitrarily or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (e) Unsupported by evidence that is both substantial and material in the light of the entire record.

In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the administrative hearing officer as to the weight of the evidence on questions of fact.

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

(10) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record. (Ord. #783, Nov. 2017)

12-918. Appeal to court of appeals. (1) An aggrieved party may obtain a review of any final judgment of the chancery court under this chapter by appeal to the court of appeals of Tennessee.

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

(3) The procedure on appeal shall be governed by the Tennessee Rules of Appellate Procedure. (Ord. #783, Nov. 2017)

TITLE 13**PROPERTY MAINTENANCE REGULATIONS¹****CHAPTER**

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. SATELLITE DISH ANTENNAS.

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

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Overgrown and dirty lots.
- 13-106. Dead animals.
- 13-107. Health and sanitation nuisances.
- 13-108. Violations and penalty.

13-101. Health officer. (1) There is hereby created the position of health officer for the City of South Pittsburg, Tennessee.

(2) The position of health officer shall be filled by appointment, upon proper resolution of the board of mayor and commissioners, and the term of said office shall be for a period of one (1) year, commencing on March 1. Any appointment made on a date other than March 1, shall continue until March 1 of the next succeeding year and any person so appointed shall continue to hold the office beyond his term until his successor is duly appointed by the board of mayor and commissioners.

(3) The health officer shall have the authority to enforce and/or regulate all ordinances of the City of South Pittsburg, Tennessee, relating to health matters. (2005 Code, § 13-101)

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Wastewater treatment: title 18, chapter 2.

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. (2005 Code, § 13-102)

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 prevent the breeding of mosquitoes. (2005 Code, § 13-103)

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one foot (1'). (2005 Code, § 13-104)

13-105. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-19-101, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or accumulations of debris, trash, litter, junk automobiles and vehicles, junk appliances, junk equipment, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-19-101, it shall be unlawful for a commercial unit, as defined as "all premises, locations or entities, public or private, requiring refuse collection within the corporate limits of the city, not a residential unit," to place commercial refuse, defined as "garbage generated by a producer at a commercial unit, including bulky waste, construction debris, and stable matter" for collection at the expense of the City of South Pittsburg.

(2) Designation of public officer. The South Pittsburg Board of Mayor and Commissioners hereby designates the South Pittsburg Chief of Police as the enforcement officer for the provisions of this section.

(3) Notice to property owner. It shall be the duty of the chief of police to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days, excluding Saturdays, Sundays, and legal holidays. If the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials the notice shall be in plain language to remedy the condition within twenty (20) days, excluding Saturdays, Sundays, and legal holidays. The notice shall be issued in person to the property owner or shall be sent by registered or certified

United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of this section and that the property of such owner shall be cleaned-up at the expense of the owner;

(b) The person, office, address, and telephone number of the chief of police; and

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

(4) Penalties for violation. If the property owner of record fails or refuses to remedy the condition within ten (10) days after the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage or other materials), the chief of police shall immediately cause the property owner to be issued a misdemeanor violation citation. Upon conviction, any person violating the provisions of this section shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violations continue shall constitute a separate offense.

(5) Appeal. The owner of record who is aggrieved by the determination and order of the chief of police may appeal the determination and order to the South Pittsburg Board of Mayor and Commissioners. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(6) Judicial review. Any person aggrieved by an order or act of the South Pittsburg Board of Mayor and Commissioners under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

(7) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for any other provision in the municipal charter, 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 trees, vines, grass, weeds, underbrush and/or the accumulation of debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of the municipal code or any other applicable law.

(8) Definition of junk. For the purposes of this section the term "junk", shall be defined as follows:

"Junk." Any automobile, vehicle, appliance or equipment which is incapable of being operated under its own power. (2005 Code, § 13-105)

13-106. 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. (2005 Code, § 13-106)

13-107. 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. (2005 Code, § 13-107)

13-108. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

SLUM CLEARANCE

SECTION

- 13-201. Purpose.
- 13-202. Definitions.
- 13-203. Public officer designated.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. Notice of unfit structure.
- 13-207. Building inspector removal or demolition of unfit structure.
- 13-208. Liens for costs of removal or demolition.
- 13-209. Basis for finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Administrative appeal.
- 13-212. Enjoining enforcement of order.
- 13-213. Additional powers of the building inspector.
- 13-214. Powers conferred as supplementary.

13-201. Purpose. Whenever the City of South Pittsburg finds that there exists structures which are unfit for human occupation or use due to dilapidation, defects increasing 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 South Pittsburg, the city shall exercise its police powers to repair, close, or demolish the aforementioned structure in the manner provided in *Tennessee Code Annotated*, §§ 13-21-101 to 13-21-110. (2005 Code, § 12-601)

13-202. Definitions. As used in this part, unless the context otherwise requires:

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

(2) "Governing body." The South Pittsburg Board of Mayor and Commissioners.

(3) "Municipality." The City of South Pittsburg, Tennessee and the areas encompassed within the existing city limits or as hereinafter annexed.

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

(5) "Parties in interest." All individuals, associations, corporations and others who have interest of record in a structure and any who are in possession thereof.

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

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

(8) "Public officer." The officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by such ordinances.

(9) "Structure." Any dwelling or place of public accommodation. (2005 Code, § 12-602)

13-203. Public officer designated. The board of mayor and commissioners hereby designates the South Pittsburg building inspector as the public officer to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (2005 Code, § 12-603)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the building inspector by any public authority or by at least five (5) residents of South Pittsburg, Tennessee charging that any structure is unfit for human occupation or use, or whenever it appears to the building inspector (on the building inspector's own motion) that any structure is unfit for occupation or use, the building inspector shall, if preliminary investigation discloses a basis for such charges, issue the 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 building inspector (or building inspector'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, that:

(1) 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; and

(2) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the building inspector. (2005 Code, § 12-604)

13-205. Orders to owners of unfit structures. If, after such notice and hearing, the building inspector determines that the structure under consideration is unfit for human occupation or use, the building inspector shall state in writing the building inspector'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 (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the building inspector's 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 (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the building inspector's order, to remove or demolish such structure. (2005 Code, § 12-605)

13-206. Notice of unfit structure. If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the structure, the building inspector may cause such structure to be repaired, altered, or improved, or to be vacated and closed; that the building inspector 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." (2005 Code, § 12-606)

13-207. Building inspector removal or demolition of unfit structure. If the owner fails to comply with an order to remove or demolish the structure, the building inspector may cause such structure to be removed or demolished. (2005 Code, § 12-607)

13-208. Liens for costs of removal or demolition. The amount of the cost of such repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the building inspector 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 Marion County, be a lien on the property in favor of the municipality, second only to the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner though an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the

fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the building inspector, the building inspector shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Marion County, Tennessee by the building inspector, 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 South Pittsburg, Tennessee to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (2005 Code, § 12-608)

13-209. Basis for finding of unfitness. The South Pittsburg Building Inspector may determine that a structure is unfit for human occupation or use if the building inspector 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 South Pittsburg. Such conditions may include the following (without limiting the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (2005 Code, § 12-609)

13-210. Service of complaints or orders. Complaints or orders issued by the building inspector, 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 building inspector in the exercise of reasonable diligence, and the building inspector shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the municipality, or in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the structure(s) are located. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the register's office of Marion County, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (2005 Code, § 12-610)

13-211. Administrative appeal. All parties in interest may appeal the building inspector's ruling, pursuant to the provisions of this chapter, to the South Pittsburg Board of Mayor and Commissioners at its next regularly scheduled meeting. If the parties in interest of the property do not file the appeal at the next regularly scheduled board of mayor and commissioners

meeting, or do not show cause for extension for the ruling, the ruling of the building inspector shall prevail. (2005 Code, § 12-611)

13-212. Enjoining enforcement of order. Any person affected by an order issued by the building inspector may file a bill in the chancery court of Marion County for an injunction restraining the building inspector from carrying out the provisions of the order, and the court may, upon filing of such bill, issue a temporary injunction restraining the building inspector pending the final disposition of the cause; provided, that within sixty (60) days after the posting and service of the order of the building inspector, such person shall file such bill in the court. Hearings shall be had by the court on such bills within twenty (20) days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar.

The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In such proceedings, the findings of the building inspector as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies, and no person affected by an order of the building inspector shall be entitled to recover damages for action taken pursuant to any order of the building inspector, or because of noncompliance by such person with any order of the building inspector. (2005 Code, § 12-612)

13-213. Additional powers of the building inspector. This chapter shall authorize the building inspector to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes of this chapter in addition to the other powers granted herein, including:

- (1) Investigate conditions in the municipality in order to determine which structures therein are unfit for human occupation or use;
 - (2) Administer oaths, affirmations, examine witnesses and receive evidence;
 - (3) Enter upon premises for the purpose of making examinations; provided, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession;
 - (4) Appoint and fix the duties of such officers, agents, and employees as the building inspector deems necessary to carry out the purposes of this chapter; and
 - (5) Delegate any functions and powers of the building inspector under this chapter to such officers and agents as the building inspector may designate.
- (2005 Code, § 12-613)

13-214. Powers conferred as supplementary. Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of South Pittsburg to enforce any provisions of the city 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. (2005 Code, § 12-614)

CHAPTER 3

SATELLITE DISH ANTENNAS

SECTION

13-301. Regulations.

13-301. Regulations. Satellite dish antennas, subject to the following regulations, may be located within the City of South Pittsburgh.

(1) Satellite dish antennas shall be located in the rear yard and behind the principal dwelling or structure located on the lot; are not closer than ten feet (10') from the base of antenna to any lot line; are not on an easement; and do not cover more than thirty percent (30%) of any required rear yard.

(2) Satellite dish antennas may be located on a corner lot provided they observe the following special setback provisions. The placement of a satellite dish antenna must be located on the inside quadrant of the lot, provided that the front yard setback from each street applies and that the structure is properly screened with fencing and/or landscaping.

(3) Satellite dish antennas may be located on a rooftop provided they are properly screened from sight.

(4) A satellite dish antenna may be installed or erected in a location not specified in this chapter provided that the installing technician submits a written notice including a location site plan to the city specifying the proposed placement as the only signal receiving location on the lot from the aforementioned specifications.

(5) Satellite dish antennas are permissible in all commercial districts provided that the placement and installation thereof comply with this chapter.

(6) No installation or erection of a satellite dish antenna shall commence before a permit is obtained from the City of South Pittsburgh. (2005 Code, § 13-201)

TITLE 14**ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MUNICIPAL FLOODPLAIN ORDINANCE.
4. SURVEYS OR RE-SURVEYS OF REAL PROPERTY.
5. BOARD OF ZONING APPEALS.

CHAPTER 1**MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.

14-101. Creation and membership. Pursuant to the provisions of *Tennessee Code Annotated*, § 13-4-101, there is hereby created and established a municipal planning commission, hereinafter referred to as planning commission. The planning commission shall consist of seven (7) members. One (1) of the members shall be the mayor of the municipality, or a person designated by the mayor and one (1) of the members shall be a member of the board of commissioners. All other members shall be appointed by the mayor. All members of the planning commission shall serve without compensation. The initial commission shall be appointed for four (4), three (3), two (2) and one (1) year. Thereafter the terms shall be for four (4) years, except for the term of the mayor and member of board of commissioners whose terms shall expire concurrent with their term of office. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor of the municipality, who shall also have the authority to remove any appointed member at his pleasure. (2005 Code, § 14-101, modified)

14-102. Organization, powers, duties, etc. The planning commission shall have such organization, rules, staff, powers, functions, duties, and responsibilities as are prescribed in the general law relating to municipal planning commissions in *Tennessee Code Annotated*, title 13. (2005 Code, § 14-102)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by, the provisions of the state law relating to regional planning commissions. (2005 Code, § 14-103)

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 South Pittsburg shall be governed by Ord. #536, titled "Zoning Ordinance, South Pittsburg, Tennessee," and any amendments thereto.¹ (2005 Code, § 14-201)

¹Ord. #536, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

MUNICIPAL FLOODPLAIN ORDINANCE

SECTION

- 14-301. Statutory authorization, findings of fact, purpose, and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Provisions for flood hazard reduction.
- 14-306. Variance procedures.

14-301. Statutory authorization, findings of fact, purpose, and objectives. (1) Statutory authorization. The legislature of the State of Tennessee has in *Tennessee Code Annotated*, §§ 13-7-201 to 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of South Pittsburg, Tennessee, Mayor and Commissioners do ordain as follows.

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

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

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

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

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this chapter are:

(a) To protect human life, health, safety, and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

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

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

(h) To maintain eligibility for participation in the NFIP. (Ord. #726, Oct. 2011)

14-302. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this chapter, shall conform to the following:

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

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

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

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

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

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

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

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

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

(6) "Area of special flood hazard." See "special flood hazard area."

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

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

(9) "Building." See "structure."

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

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

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

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

(14) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

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

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

(17) "Existing structures." See "existing construction."

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

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

(a) The overflow of inland or tidal waters; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to

water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

(36) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the City of South Pittsburg, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

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

(ii) Directly by the Secretary of the Interior.

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

(38) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(41) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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

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

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

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

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

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

(48) "100-year flood." See "base flood."

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

(50) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(51) "Recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and

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

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

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

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

(55) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(56) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) "State coordinating agency" means the Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(58) "Structure" for purposes of this chapter, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(59) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged

condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. The current market value shall be determined by the county property assessor's office.

(60) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. The current market value shall be determined by the county property assessor's office. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be: the appraised value of the structure prior to the start of the initial improvement; or in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(61) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

(62) "Variance" is a grant of relief from the requirements of this chapter.

(63) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #726, Oct. 2011)

14-303. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of the City of South Pittsburg, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of South Pittsburg, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance

Rate Map (FIRM), Community ID 475447 Panel Number 0212, dated February 4, 2009, and Revised Panel Numbers 0215 and 0355 dated January 6, 2012 along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

(4) Compliance. No land, structure, or use shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be: considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of South Pittsburg, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication therefor, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of South Pittsburg, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #726, Oct. 2011)

14-304. Administration. (1) Designation of ordinance administrator. The building inspector is hereby appointed as the administrator to implement the provisions of this chapter.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-305(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. (i) Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

(ii) Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

(iii) For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation

or floodproofing level upon the completion of the lowest floor or floodproofing.

(iv) Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. section 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with subsection (2) above.

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with subsection (2) above.

(h) When floodproofing is utilized for a non-residential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with subsection (2) above.

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field

conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of South Pittsburg, Tennessee FIRM meet the requirements of this chapter.

(k) Maintain all records pertaining to the provisions of this chapter in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #726, Oct. 2011)

14-305. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse, and lateral movement of the structure.

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(i) Any alteration, repair, reconstruction, or improvements to a building that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter.

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter, shall be undertaken only if said non-conformity is not further extended or replaced.

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. section 1334.

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of subsection (2) below.

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction.

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in subsection (1) above, are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria:

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade; and

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of this subsection (2).

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved, on: individual lots or parcels; in expansions to existing manufactured home parks or subdivisions; or in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-302).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of subsection (1) above and this subsection (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones, require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see subsection (5) below).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-303(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of South Pittsburg, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) above.

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) above.

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-303(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see subsection (5)(b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of subsections (1) and (2) above.

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2). Openings sufficient to facilitate automatic equalization of hydrostatic

flood forces on exterior walls shall be provided in accordance with the standards of subsection (2) above.

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of South Pittsburg, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) above. Within approximate A Zones, require that those subsections of subsection (2) above dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

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

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of subsection (2) above.

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with

structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-304(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-303(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of § 14-304 and this section shall apply.

(8) Standards for unmapped streams. Located within the City of South Pittsburg, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with § 14-304 and this section. (Ord. #726, Oct. 2011)

14-306. Variance procedures. (1) Municipal board of zoning appeals.

(a) Authority. The City of South Pittsburg, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times, as the board shall determine. All meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof,

which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

(c) Appeals; how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm, or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty dollars (\$50.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than thirty (30) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of South Pittsburg, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

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

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

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

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

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

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

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

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

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

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

(D) Upon consideration of the factors listed above, and the purposes of this chapter, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

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

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-304(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud

on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (Ord. #726, Oct. 2011)

CHAPTER 4

SURVEYS OR RE-SURVEYS OF REAL PROPERTY

SECTION

- 14-401. Subdivision or re-subdivision of real property regulated.
- 14-402. Surveys or re-surveys conducted by registered surveyor.
- 14-403. Iron pipe or pin to be provided.
- 14-404. "Natural object" to be replaced.
- 14-405. Removal of permanent lot marker prohibited.
- 14-406. Violations and penalty.

14-401. Subdivision or re-subdivision of real property regulated.

The subdivision or re-subdivision of real property is currently regulated under the subdivision regulations of South Pittsburg, Tennessee and this chapter shall apply to the surveying of all real property in the City of South Pittsburg, Tennessee. (2005 Code, § 14-401)

14-402. Surveys or re-surveys conducted by registered surveyor.

Upon final adoption of this chapter, all surveys or re-surveys of real property shall be conducted by a registered surveyor, certified by the State of Tennessee and governed by the Tennessee Land Surveyors Laws and Regulations. (2005 Code, § 14-402)

14-403. Iron pipe or pin to be provided. In the conduct of surveying or re-surveying all real property in the City of South Pittsburg, Tennessee, all surveyors shall locate real property corners and shall provide, where otherwise not provided, an iron pipe or iron pin, subject to the specifications of Tennessee Land Surveyors Laws and Regulations; at all lot corners of the surveyed or re-surveyed property. (2005 Code, § 14-403)

14-404. "Natural object" to be replaced. Where a "natural object", which has previously identified a corner, is used for the identification of a lot corner by the survey or re-survey of real property, it shall be replaced by or supplemented with an iron pipe or iron pin, subject to the specifications of Tennessee Land Surveyors Laws and Regulations. (2005 Code, § 14-404)

14-405. Removal of permanent lot marker prohibited. No person or persons shall remove a permanent lot marker that has been established or provided by a certified land surveyor who, in the performance of their duties and in compliance with this chapter has identified, located, and recorded as an official lot marker in the survey or re-survey of any real property in South Pittsburg, Tennessee. (2005 Code, § 14-405)

14-406. Violations and penalty. Upon final adoption of this chapter, violation of any provision of this chapter is a misdemeanor and subject to a fifty (\$50.00) dollar fine for each violation of this chapter. (2005 Code, § 14-406)

CHAPTER 5

BOARD OF ZONING APPEALS

SECTION

- 14-501. Creation and membership.
- 14-502. Jurisdiction and rules of procedure.
- 14-503. Powers.
- 14-504. Training.

14-501. Creation and membership. Pursuant to the provisions of *Tennessee Code Annotated*, § 13-7-205 there is hereby created a board of zoning appeals. The board of zoning appeals shall consist of three (3) members selected by the board of mayor and commissioners. Except for the initial appointments, the terms of the members shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. Any vacancy in shall be filled for the unexpired term by the board of mayor and commissioners, who shall also have the authority to remove any appointive member at its will and pleasure. (2005 Code, § 14-501)

14-502. Jurisdiction and rules of procedure. The procedure and jurisdiction of the board of zoning appeals shall be governed by such rules as provided by ordinance, in accordance with all applicable provisions of *Tennessee Code Annotated*, title 13. In addition, the board of zoning appeals may adopt supplemental rules of procedure, not inconsistent with the charter and ordinances of the City of South Pittsburg or *Tennessee Code Annotated*, title 13. (2005 Code, § 14-502)

14-503. Powers. The board of zoning appeals has the power to:

1. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by any administrative official in the carrying out or enforcement of any provision of the zoning ordinance;
2. Hear and decide, in accordance with the provisions of the zoning ordinance, requests for special exceptions or for interpretation of the map or for decisions upon other special exceptions or for interpretation of the map or for decisions upon other special questions upon which the board is authorized by the zoning ordinance to pass; and
3. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any provision of the zoning ordinance would result in

peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property, authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship; provided, that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance. (2005 Code, § 14-503)

14-504. Training. The board of mayor and commissioners elects to opt out of the training and continuing education requirements of *Tennessee Code Annotated*, § 13-7-205(c). (2005 Code, § 14-504)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS²

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.

¹Municipal code reference

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

²State law references

Under *Tennessee Code Annotated*, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by *Tennessee Code Annotated*, § 55-10-401; failing to stop after a traffic accident, as prohibited by *Tennessee Code Annotated*, §§ 55-10-101, *et seq.*; driving while license is suspended or revoked, as prohibited by *Tennessee Code Annotated*, § 55-7-116; and drag racing, as prohibited by *Tennessee Code Annotated*, § 55-10-501.

- 15-112. Driving through funerals or other processions.
- 15-113. Damaging pavements.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Speed humps or breakers.
- 15-122. Weight limits on city streets.
- 15-123. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-124. Delivery of vehicle to unlicensed driver, etc.
- 15-125. Compliance with financial responsibility law required.
- 15-126. Adoption of state traffic statutes.

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. (2005 Code, § 15-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (2005 Code, § 15-102)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (2005 Code, § 15-103)

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

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

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

(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. (2005 Code, § 15-104)

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

On two (2) 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. (2005 Code, § 15-105)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or centerline, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (2005 Code, § 15-106)

15-107. Miscellaneous traffic control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking or device placed or erected by the state or the city. (2005 Code, § 15-107)

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

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

¹Municipal code references

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

²For the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, *et seq.*

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. (2005 Code, § 15-109)

15-110. Presumption with respect to traffic control signs, etc.

When a traffic control sign, signal, marking or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper city authority.

All presently installed traffic control signs, signals, markings, and devices are hereby expressly authorized, ratified, approved, and made official. (2005 Code, § 15-110)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (2005 Code, § 15-111)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (2005 Code, § 15-112)

15-113. Damaging pavements. No person shall operate or cause to be operated 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. (2005 Code, § 15-113)

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley or other public way or place. (2005 Code, § 15-114)

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (2005 Code, § 15-115)

15-116. 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. (2005 Code, § 15-116)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve inches (12") square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (2005 Code, § 15-117)

15-118. 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. (2005 Code, § 15-118)

15-119. 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 Classified and Commercial Driver License Act of 1988."

15-120. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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

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

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

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

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (2005 Code, § 15-120)

15-121. Speed humps or breakers. The construction of speed humps or breakers on the public streets and alleys of the city is hereby authorized. It shall be unlawful for any person to do damage to, remove any portion of, or do any act which injures or reduces the effectiveness of any such device. (2005 Code, § 15-122)

15-122. Weight limits on city streets. 1. It shall be unlawful for any vehicle of a weight exceeding ten thousand (10,000) pounds to travel on any city streets except to make deliveries to merchants or residents on such streets except for the following streets:

- a. Nineteenth (19th) Street;
- b. Third (3rd) Street from the railroad crossing to the Highway 72 bypass;
- c. Railroad Avenue from Third (3rd) Street to Eighth (8th) Street;
- d. Cedar Avenue from the Alabama state line to twelfth (12th) street;
- e. Ash Avenue; and
- f. The portion of Twelfth (12th) Street from Cedar Avenue to the Highway 72 bypass.

2. Any owner of a vehicle wishing to exceed the above weight limit must post a bond in the amount set by the Board of Mayor and Commissioners for the City of South Pittsburg before traveling on South Pittsburg city streets. Violators will be liable to compensate the city for damages to city streets plus be subject to a fine of fifty dollars (\$50.00) for each citation under this section. (2005 Code, § 15-123)

15-123. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

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

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake

horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

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

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city/town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

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

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

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

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

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

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

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

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

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

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

(i) Within an enclosed cab;

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

(iii) Golf carts; or

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

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

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

15-124. Delivery of vehicle to unlicensed driver, etc.

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

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

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

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

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

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

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

15-125. Compliance with financial responsibility law required.

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

(2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in *Tennessee Code Annotated*, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in *Tennessee Code Annotated*, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under *Tennessee Code Annotated*, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the

United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

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

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

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

15-126. Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the city adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the city adopts *Tennessee Code Annotated*, §§ 55-8-181 to 55-8-193, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-8-199 by reference as if fully set forth in this section.

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. (2005 Code, § 15-201)

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

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

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

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (2005 Code, § 15-202)

¹Municipal code reference

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

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (2005 Code, § 15-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or police officer. (2005 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

- 15-301. In general.
- 15-302. At intersections.
- 15-303. In school zones.
- 15-304. In congested areas.
- 15-305. Speed schedules.

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. (2005 Code, § 15-301)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (2005 Code, § 15-302)

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

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

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. (2005 Code, § 15-304)

15-305. Speed schedules. The speed limit on Dixie Avenue and on Nineteenth (19th) Street is hereby reduced to twenty (20) miles per hour. This section shall become effective upon its passage by the Board of Mayor and Commissioners of the City of South Pittsburg, Tennessee, the public welfare requiring it. (Ord. #722, May 2011)

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.¹ (2005 Code, § 15-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (2005 Code, § 15-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of the intersection of the centerlines of the two (2) roadways. (2005 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (2005 Code, § 15-404)

15-405. U-turns. U-turns are prohibited. (2005 Code, § 15-405)

¹State 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.
- 15-511. Stop schedules.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (2005 Code, § 15-501)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (2005 Code, § 15-502)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (2005 Code, § 15-503)

¹Municipal code reference

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

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

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

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

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

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (2005 Code, § 15-504)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection and shall remain standing until he can proceed through the intersection in safety. (2005 Code, § 15-505)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (2005 Code, § 15-506)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

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

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

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

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

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

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

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

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

(4) Steady red with green arrow:

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

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

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (2005 Code, § 15-507)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) 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. (2005 Code, § 15-508)

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. (2005 Code, § 15-509)

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (2005 Code, § 15-510)

15-511. Stop schedules. The intersection at Third (3rd) Street and Magnolia Avenue is designated as a four (4) way stop. This section shall become effective immediately upon its passage by the Board of Mayor and Commissioners of the City of South Pittsburg, Tennessee, the public welfare requiring it. (Ord. #725, Sept. 2011)

¹State 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. Presumption with respect to illegal parking.
- 15-607. Parking on city-owned and city-managed property regulated.

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, at all places where angular parking is provided for.

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

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. (2005 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (2005 Code, § 15-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the

street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (2005 Code, § 15-603)

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

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen feet (15') thereof.
- (4) Within fifteen feet (15') of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within fifty feet (50') of a railroad crossing.
- (7) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such 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. (2005 Code, § 15-604)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (2005 Code, § 15-605)

15-606. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (2005 Code, § 15-606)

15-607. Parking on city-owned and city-managed property regulated. (1) City-owned or city-managed parking lots now or hereafter acquired by the city shall be under the supervision of the chief of police.

(2) It shall be unlawful to park any vehicle on any city-owned or city-managed parking lot in violation of any ordinance. No commercial or freight-carrying vehicle or trailer shall be parked on any city-owned or city-managed parking lot.

(3) No vehicle shall stand, be stored or parked for a period exceeding twenty-four (24) hours continuously, on any public property.

(4) Vehicles illegally parked will be towed away at owner's expense. (2005 Code, § 15-607)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Impoundment of vehicles.
- 15-702. Issuance of traffic citations.
- 15-703. Failure to obey citation.
- 15-704. Parking spaces reserved for the physically handicapped.
- 15-705. Disposal of "abandoned motor vehicles."
- 15-706. Violations and penalty.

15-701. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested, or any vehicle which is illegally parked, abandoned, or otherwise parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Such an impounded vehicle shall be stored until the owner claims it, gives satisfactory evidence of ownership, and pays all applicable fines and costs. The fee for impounding a vehicle shall be five dollars (\$5.00) and a storage cost of one dollar (\$1.00) per day shall also be charged. (2005 Code, § 15-701)

15-702. Issuance of traffic citations. When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (2005 Code, § 15-702)

15-703. 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 charges for which the citation was originally issued. (2005 Code, § 15-703)

15-704. Parking spaces reserved for the physically handicapped.

No person shall park a vehicle in a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is: physically handicapped; or parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under *Tennessee Code Annotated*, title 55, chapter 21. (2005 Code, § 15-704)

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 to 55-16-109. (2005 Code, § 15-705)

15-706. Violations and penalty.

Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking meter violation, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, his fine shall be ten dollars (\$10.00).

(b) Other parking violations excluding handicapped parking. For other parking violations, excluding handicapped parking violations, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the city recorder a fine of ten dollars (\$10.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, his civil penalty shall be twenty-five dollars (\$25.00).

(c) Handicapped parking. Parking in a handicapped parking space shall be punished by a civil penalty of fifty dollars (\$50.00). (2005 Code, § 15-709, modified)

CHAPTER 8

STREET ADOPTION POLICY

SECTION

- 15-801. Street adoption policy adopted.
- 15-802. Designation of official city streets.
- 15-803. Public funds for maintenance of official city streets.
- 15-804. Standards for acceptance of official city streets.
- 15-805. Adoption procedure for official city streets.
- 15-806. Building inspector maintains records.

15-801. Street adoption policy adopted. From and after passage of this official street adoption policy, no public funds shall be expended for the construction or maintenance of any street, road, easements, drives or other means of ingress or egress for vehicular traffic in the City of South Pittsburg, Tennessee, except in compliance with this chapter. (2005 Code, § 15-801)

15-802. Designation of official city streets. All streets, roads, easements, drives or other means of ingress or egress for vehicular traffic in the City of South Pittsburg, Tennessee, that are not listed in this chapter¹ or have not subsequently been accepted as official city streets, in accordance with this chapter are not designated as official city streets. No public funds shall be expended to maintain, modify, or upgrade any means of vehicular ingress or egress that has not obtained the designation of an official city street, until such time that the means of vehicular ingress and egress has been accepted or adopted as an official city street, in accordance with this chapter. (2005 Code, § 15-802)

15-803. Public funds for maintenance of official city streets. The streets which are designated as official city streets¹ upon adoption of this chapter and no other streets shall receive public funds for maintenance until such time that they become official city streets, in accordance with this chapter. (2005 Code, § 15-803)

15-804. Standards for acceptance of official city streets. No street, road, easement, drive, or other means of ingress or egress for vehicular traffic shall be accepted or adopted as an official city street, nor shall any public funds be expended for the construction or maintenance of such street, road, easement, drive or other means of ingress or egress for vehicular traffic until such time

¹The official city street list is of record in the office of the South Pittsburg Building Inspector.

that the street, road, easement, drive or other means of ingress or egress for vehicular traffic has been built according to the subdivision regulation standards for the City of South Pittsburg, Tennessee and such street, road, or other way shall have been reviewed, approved and recommended for adoption as an official city street by the South Pittsburg Municipal Planning Commission. (2005 Code, § 15-804)

15-805. Adoption procedure for official city streets. The procedure for officially accepting or adopting an official city street shall require the board of mayor and commissioners to adopt a street by a formal motion and a majority of affirming votes cast for acceptance of such street in a regular session of the board of mayor and commissioners or at a special called meeting which has been advertised in accordance with open meeting laws. No street shall be accepted by the board of mayor and commissioners until such time that the South Pittsburg Municipal Planning Commission shall have first reviewed, approved, and recommended such street, through its subdivision review authority. (2005 Code, § 15-805)

15-806. Building inspector maintains records. The South Pittsburg Building Inspector shall keep and maintain records of the existing official city streets that are eligible for maintenance with public funds. The building inspector shall also keep and maintain records of all streets that are officially accepted or adopted by the board of mayor and commissioners, in accordance with this chapter. (2005 Code, § 15-803)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Obstruction of drainage ditches.
- 16-108. Abutting occupants to keep sidewalks clean, etc.
- 16-109. Parades, etc., regulated.
- 16-110. Animals and vehicles on sidewalks.
- 16-111. Fires in streets, etc.
- 16-112. All terrain vehicles on sidewalks, alleys, and parks prohibited.
- 16-113. Violations and penalty.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk (except that not more than six feet (6') from the front of the building may be used) or right-of-way for the purpose of storing, selling or exhibiting any goods, wares, merchandise or materials. (Ord. #831, July 2022)

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 feet (14') or out over any sidewalk at a height of less than eight feet (8'). (2005 Code, § 16-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

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. (2005 Code, § 16-103)

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.¹ (2005 Code, § 16-104)

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 board of mayor and commissioners after a finding that no hazard will be created by such banner or sign. (2005 Code, § 16-105)

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. (2005 Code, § 16-106)

16-107. 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. (2005 Code, § 16-108)

16-108. Abutting occupants to keep sidewalks clean, etc.

The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (2005 Code, § 16-109)

16-109. Parades, etc., regulated.

It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be

¹Municipal code reference

Building code: title 12, chapter 1.

unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (2005 Code, § 16-110)

16-110. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (2005 Code, § 16-112)

16-111. 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. (2005 Code, § 16-113)

16-112. All terrain vehicles on sidewalks, alleys, and parks prohibited. It shall be unlawful and a violation of the ordinances of this city for any person or persons to operate on the streets, sidewalks, alleys, or city parks of this city, any off-highway vehicle as defined in *Tennessee Code Annotated*, § 55-3-101(c)(2)(d). (2005 Code, § 16-114)

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

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Annual deposits.
- 16-206. Purpose.
- 16-207. Refund of special deposits.
- 16-208. Manner of excavating; barricades and lights; temporary sidewalks.
- 16-209. Restoration of streets, etc.
- 16-210. Unacceptable fill material.
- 16-211. Breaking through pavement.
- 16-212. Driveway curb cuts.
- 16-213. Clean up.
- 16-214. Insurance.
- 16-215. Time limits.
- 16-216. Supervision.
- 16-217. Violations and penalty.

16-201. Permit required. It shall be unlawful to make any excavation 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 Commissioner of Public Works (CPW)(at city hall) is open for business and said permit shall be retroactive to the date when the work was begun. The public works foreman is hereby given full authority to act in behalf of the commissioner of public works in his absence from city hall. (2005 Code, § 16-201)

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of *City of Paris, Tennessee v. Paris-Henry County Public Utility District*, 207 Tenn. 388, 340 S.W.2d 885 (1960).

16-202. Applications. Applications for such permits shall be made to the commissioner of public works 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 for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done and that the applicant will perform all work in full compliance with the attached specifications. Such application shall be rejected or approved by the commissioner of public works within twenty-four (24) hours of its filing. (2005 Code, § 16-202)

16-203. Fee. The fee for such permits shall be five dollars (\$5.00) for excavations which do not exceed twenty-five (25) square feet or tunnels not exceeding twenty-five feet (25') in length; and twenty-five cents (\$0.25) 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, however, Marion Natural Gas Systems and the South Pittsburg Board of Water Works and Sewers are expressly excused from paying any fees for permits. (2005 Code, § 16-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the commissioner of public works a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or one hundred dollars (\$100.00) 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 commissioner of public works 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 the restoration work if this is done by the city or at its expense. The balance shall be returned to the permittee without interest as provided herein 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 commissioner of public works a surety bond in such form and amount as the commissioner of public works shall deem adequate to cover the costs to the city if the permittee fails to make proper restoration. (2005 Code, § 16-204)

16-205. Annual deposits. In lieu of deposit or bond as set out in the § 16-204, Marion Natural Gas System and the South Pittsburg Board of Water Works and Sewers shall be required to make and maintain with the city an annual deposit in the sum of ten thousand dollars (\$10,000.00) each, beginning January 15, 1990; and the interest accrued on each deposit shall be added to each deposit. The amount of each fund shall be adjusted annually by the city. (2005 Code, § 16-205)

16-206. Purpose. Any special or annual deposit made hereunder shall serve as security for the repair and performance of work necessary to put the public place in as good a condition as it was prior to the excavation if the permittee fails to make the necessary repairs or to complete the proper refilling of the opening and the excavation work under the excavation permit. (2005 Code, § 16-206)

16-207. Refund of special deposits. Upon the permittee's completion of the work covered by such permit in conformity with this chapter as determined by the commissioner of public works, two-thirds (2/3) of such special deposit, shall be promptly refunded by the city to the permittee and the balance shall be refunded by the city to the permittee upon the expiration of a twenty-four (24) month period. (2005 Code, § 16-207)

16-208. Manner of excavating; barricades and lights; temporary sidewalks. 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. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

When traffic conditions permit, the commissioner of public works may by written approval permit the closing of streets and alleys to all traffic for a period of time prescribed by him, if in his opinion it is necessary. The written approval may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given. (2005 Code, § 16-208)

16-209. Restoration of streets, etc. The permittee shall restore the excavation or tunnel in accordance with the specifications. In case of unreasonable delay in restoring the excavation or tunnel, the commissioner of public works shall give notice to the permittee 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 the permittee. 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 permittee who made the excavation or tunnel. (2005 Code, § 16-209)

16-210. Unacceptable fill material. If for any reason the excavated material cannot be compacted to its original density, the material shall be removed and material acceptable to the commissioner of public works shall be used to complete the work. (2005 Code, § 16-210)

16-211. Breaking through pavement. Heavy duty pavement breakers may be prohibited by the administrative authority when the use endangers existing substructures or other property.

Saw cutting of portland cement concrete may be required by the commissioner of public works when the nature of the work or the condition of the street warrants. When required, the depth of the cut shall be not less than one inch (1") in depth; however, depths greater than one inch (1") may be required when circumstances warrant. Saw cutting may be required outside of the limits of the excavation over cave-outs, overbreaks and small floating sections.

Approved cutting of bituminous pavement surface ahead of excavations may be required to confine pavement damage to the limits of the trench.

Sections of sidewalks shall be removed to the nearest score line or joint.

Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.

Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

Cutouts outside of the trench lines must be normal or parallel to the trench line.

Boring or other method to prevent cutting of new pavement may be required by the commissioner of public works.

Permittee shall not be required to repair pavement damage existing prior to excavation unless his cut results in small floating sections that may be unstable, in which case permittee shall remove and pave the area.

In case of any conflict between the provisions of this section ("breaking through pavement") with the specifications, the conflict shall be resolved by the commissioner of public works and written decision shall be given to the permittee. (2005 Code, § 16-211)

16-212. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the commissioner of public works. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. All new constructions or replacement of driveway drainage culverts shall have minimum dimensions of fifteen inches (15") in diameter for metal corrugated pipe or

twelve inches (12") in diameter for concrete pipe, and twenty feet (20') in length, and shall be constructed in a manner not to impede adequate drainage along the road right-of-way. All installations shall be inspected by the city during installation. (2005 Code, § 16-212)

16-213. Clean up. As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the commissioner of public works. From time to time, as may be ordered by the commissioner of public works and in any event immediately after completion of said work, the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within twenty-four (24) hours after having been notified to do so by the commissioner of public works, said work may be done by the city and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder. (2005 Code, § 16-213)

16-214. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars (\$300,000.00) for each person, and not less than seven hundred thousand dollars (\$700,000.00) for each accident, and for property damages not less than one hundred thousand dollars (\$100,000.00) for each accident.

16-215. 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 municipality if the municipality 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 commissioner of public works. (2005 Code, § 16-215)

16-216. Supervision. The public works foreman shall from time to time inspect all excavations and tunnels being made 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. (2005 Code, § 16-216)

16-217. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense.

TITLE 17**REFUSE AND TRASH DISPOSAL¹****CHAPTER****1. GARBAGE AND TRASH.****CHAPTER 1****GARBAGE AND TRASH****SECTION**

- 17-101. Definitions.
- 17-102. Jurisdiction.
- 17-103. General discharge prohibitions.
- 17-104. Rules and regulations to implement chapter.
- 17-105. Collection and disposal of industrial waste, hazardous waste, pathogenic waste, radioactive waste and salvageable materials for reclamation.
- 17-106. Container provided.
- 17-107. Safe premises for collection; location of containers.
- 17-108. Garbage wrapped; mixing with ashes, rubbish.
- 17-109. Dumps and fills, other places of disposal.
- 17-110. Collectible yard refuse: leaves, grass, trimmings, trees and paper.
- 17-111. Collection schedules and requirements.
- 17-112. Removal of contractor's materials, debris, tree trimmings, etc. by contractor.
- 17-113. Exclusive collection.
- 17-114. Building debris; responsibility for removal.
- 17-115. Nuisances prohibited.
- 17-116. Interference with containers.
- 17-117. Place for disposal of waste materials.
- 17-118. Littering prohibited.
- 17-119. Open burning of garbage prohibited.
- 17-120. Premises to be kept clean.
- 17-121. Removal after emptying.
- 17-122. Brush pickup.
- 17-123. Old furniture and small appliance.
- 17-124. Items prohibited for pickup.
- 17-125. Sanitation fee assessment.

¹Municipal code reference

Property maintenance regulations: title 13.

17-126. Commercial and industrial operations.

17-127. Violations and penalty.

17-101. Definitions. For the purpose of this chapter the following words phrases shall have the meanings herein:

(1) "Commercial refuse" shall mean all waste products not otherwise defined as industrial waste, generated by retail, wholesale, office business, institutional, or industrial businesses not producing industrial waste.

(2) "Garbage" shall include every accumulation of both animal and vegetable matter, liquid or otherwise, that attends the preparation use, cooking, dealing in or storage of meat, fish, fowl, fruits or vegetables, and tin cans or other containers originally used for food stuffs.

(3) "Hazardous waste" means any chemical, compound, mixture, substance or article which may constitute a hazard to health or may cause damage to property by reason of being explosive, flammable, poisonous, corrosive, unstable, irritating, radioactive or otherwise harmful. Hazardous waste includes, but is not limited to, any material classified as "hazardous" under municipal, state or federal law.

(4) "Industrial waste" shall mean all such waste produced by industrial, manufacturing or processing plants, including hazardous waste and not eligible for any of the other classifications.

(5) "Pathogenic waste" shall mean all or parts of organs, bones, muscles, other tissues and organic waste of human or animal origin, laboratory cultures, and infective dressings and other similar material.

(6) "Public place" shall include parks, water or open spaces adjacent thereto, public yards, grounds and areas and all open spaces between buildings and streets and in view of such streets.

(7) "Rubbish" includes all non-putrescible solid waste consisting of both combustible and non-putrescible waste such as paper, cardboard, plastic, glass, crockery, excelsior, sloth and similar materials. It shall not include:

(a) Bulky items such as stoves, refrigerators, water tanks, television sets, washing machines

(b) Tires, automobile or truck parts,

(c) Discarded lawn items such as gym-playground equipment, lawnmowers, grills, or lawn furniture, and

(d) Similar bulky materials having a weight greater than fifty (50) pounds and/or a volume greater than thirty (30) gallons.

(8) "Yard refuse" shall include leaves, small shrubs, lawn clippings, branches and trees cut down by property owners or occupants. (Ord. #803, June 2020)

17-102. Jurisdiction. (1) The removal and disposition of all garbage, rubbish, yard refuse, commercial refuse, pathogenic waste and industrial waste

from premises in the city shall be under the jurisdiction of the city administrator or his/her designee.

(2) Each single family, duplex and triplex dwelling unit in South Pittsburg shall be required to use the city sanitation service for garbage removal. In no case shall any such residential units be combined into a single customer.

(3) Commercial customers shall use containers provided by the city, and each business, like residential customers, shall be considered a separate customer. Commercial customers, unless contracting for dumpster service from a permitted waste collector, shall be required to use the city's service. Multi-family dwellings four (4) or more residential units per building) shall be considered a commercial customer and may contract for private dumpster service.

(4) The city administrator or his/her designee may provide for the collection and removal of wastes subject to this chapter from any place or premises at times, in addition to those when regular collection service is provided. He/her shall also have the authority to provide for the collection and removal of such wastes above and beyond the extent of any regularly scheduled collection in time of emergency. (Ord. #803, June 2020)

17-103. General discharge prohibitions. No residential, commercial, industrial, office, institutional, or non-profit land user shall dispose of refuse, rubbish, garbage, yard refuse, pathogenic waste, industrial or hazardous waste other than as provided in this chapter. Any person, business, or organization found disposing of garbage, rubbish, or other wastes subject to this chapter except as herein provided shall be cited for violation of this chapter. (Ord. #803, June 2020)

17-104. Rules and regulations to implement chapter. The city administrator may make such rules and regulations as are not inconsistent with the provisions of this chapter as may be necessary or desirable to aid in the administration of and obtaining compliance with the provisions of this chapter. The city administrator shall, in the administration of this chapter, cause all persons to fully comply with all state and federal statutes and regulations which may be applicable to the disposal of all types of waste material subject to this chapter. The city administrator shall have no power to make any regulation inconsistent with any such state or federal statute or regulation. (Ord. #803, June 2020)

17-105. Collection and disposal of industrial waste, hazardous waste, pathogenic waste, radioactive waste and salvageable materials for reclamation. (1) Industrial and hazardous waste. All industrial and hazardous wastes shall be disposed of by the industry, generator, manufacturer or processing plant generating such waste under such methods and conditions

as shall be approved by the city administrator. Such industries may apply for a special permit as a private collector or may dispose of industrial waste by licensed private collectors. The disposal of industrial and hazardous waste subject to this chapter excludes, by definition, any waste subject to the terms of title 18, Sewer Use Ordinance. Garbage and rubbish not consisting of industrial, pathogenic or hazardous waste will be collected by the city.

(2) Pathogenic and radioactive waste. All pathogenic and radioactive wastes shall be disposed of by the hospital, institution or office generating such waste under such conditions as shall be approved by the city administrator and shall be in compliance with all applicable ordinances, and state and federal laws and regulations.

(3) Salvageable materials for reclamation. Persons engaged in collecting or purchasing for resale paper, cardboard, rags and scrap metals or other materials for reclamation purposes shall be exempted from the provisions of this chapter except as to those provisions and regulations of the city administrator and ordinances which pertain to maintaining standards of health and cleanliness. preventing nuisances, preventing interference with trash containers and preventing littering. (Ord. #803, June 2020)

17-106. Container provided. (1) Duty to have containers. It shall be the duty of every person in possession, charge or control of any premise where garbage or rubbish is created or accumulated, and in the case of multiple dwellings or multiple occupancy, the owner or renter of such premises, at all times to keep or cause to be kept a sufficient number of city owned containers for the deposit of garbage generated on the premises. Containers shall be approximately ninety-six (96) gallons in size.

(2) Container requirements. Containers used for the deposit of garbage or rubbish for collection by the city shall be in good condition and equipped with secure lids so that collection thereof shall not injure the person collecting the contents. Containers having ragged or sharp edges or other defects must be promptly replaced.

(3) Commercial containers. Commercial containers, other than dumpsters provided by permitted collectors, shall be approximately ninety-six (96) gallons in size and shall only be required from the city at a cost determined from time to time by the board of mayor and commissioners

(4) Commercial and industrial customers. Commercial and industrial customers shall place all eligible refuse in dumpsters provided by permitted collectors, or in containers owned by the city. Failure to do so could result in such commercial customer having to make arrangements for private refuse collection. (Ord. #803, June 2020)

17-107. Safe premises for collection; location of containers. (1) It shall be incumbent upon tenants, lessees, occupants and owners of premises to provide a safe, convenient and accessible location near the edge of city rights of

way for the purpose of collecting garbage, not closer than three feet (3') to any other object, such as mailbox, planter or otherwise. All containers to be emptied shall be placed within five feet (5') of paved streets. Containers shall be placed where collectors may pick up and empty them without attack from animals. Lids and covers of such containers shall be kept tightly closed at all times other than when garbage or rubbish are being deposited herein or removed therefrom. The city administrator may, by appropriate regulations, provide for the location of containers. City garbage collectors shall not enter houses or stores for the collection of garbage or rubbish.

(2) Garbage and refuse shall not be stored in close proximity to other personal effects which are not desired to be collected, but shall be reasonably separated in order that the collectors can clearly distinguish between what is to be collected and what is not. (Ord. #803, June 2020)

17-108. Garbage wrapped; mixing with ashes, rubbish. There shall be no ashes, hazardous materials or toxic materials as may from time to time be defined by applicable state and/or federal law. All garbage shall be kept in a separate container conforming to the requirements of this chapter. (Ord. #803, June 2020)

17-109. Dumps and fills, other places of disposal. The city may establish or designate, through contract with other public or private agencies, sanitary landfills, transfer stations, incinerators or other places of disposal as may be necessary, and no person or entity shall use any other place of disposal except with the approval of the city administrator after advice and consent of the board of mayor and commissioners. (Ord. #803, June 2020)

17-110. Collectible yard refuse: leaves, grass, trimmings, trees and paper. (1) Leaves, grass cuttings, garden trimmings, weeds and roots from which all dirt has been removed shall be deposited within five feet (5') of the street line where garbage and rubbish service is normally provided. The city administrator may grant waivers of this section in cases of hardship. Leaves are not to be bagged and shall be placed adjacent to the property line from which collections are normally made.

(2) Leaves, grass cuttings, shrubs, branches, weeds and roots shall not be placed in containers along with residential or commercial waste .

(3) Shrubs and tree trimmings shall be separated from other refuse and neatly piled adjacent to the front property line.

(4) Limbs or logs in excess of six inches (6") in diameter must be cut into eighteen inch (18") length. Nothing larger than eighteen inches (18") in diameter will be collected.

(5) Christmas trees placed adjacent to the front property line will be picked up during the Christmas season and through the first day of February. (Ord. #803, June 2020)

17-111. Collection schedules and requirements. The city reserves the right to establish collection schedules and requirements as may be necessary. The city shall establish separate schedules for the collection of recycling, leaves, grass cuttings, shrubs, branches, and brush. In no case shall any user of the city's garbage collection service place their refuse for collection at the appropriate location prior to 4:00 P.M. on the day immediately before the day of scheduled service. (Ord. #803, June 2020)

17-112. Removal of contractor's materials, debris, tree trimmings, etc. by contractor. All contractor's materials including, but not limited to, trimmings from trees, cuttings, shrubbery, wallpaper, plaster or other debris from building operations, sackage, etc., shall be hauled away from the premises where work has been performed by said contractor and shall be properly disposed of by the contractor. For purposes of this section, a contractor shall include, but is not limited to, a person who performs what is commonly referred to as "yard work" or "landscaping" services which results in the generation of trimmings from trees., cuttings and shrubbery. (Ord. #803, June 2020)

17-113. Exclusive collection. It shall be unlawful for any person other than the city to engage in the business of collecting, removing or disposing of garbage and rubbish in the city except when specifically authorized by a city contract or permit. (Ord. #803, June 2020)

17-114. Building debris; responsibility for removal. Building debris such as scrap lumber, carpet, plaster, roofing, concrete/concrete blocks, brickbats, and sanding dust resulting from the construction, repair, remodeling or demolition of any building or appurtenances on private property will not be removed by the city, and the owner must privately move or cause to be moved such materials and waste. (Ord. #803, June 2020)

17-115. Nuisances prohibited. It shall be unlawful for any person in possession, charge of, or control of any premises to keep , cause to be kept, or allow the keeping on any premises within the corporate limits of the city of garbage, rubbish, or other waste subject to this chapter in such manner that it becomes offensive or deleterious to health or likely to cause disease, and such keeping is hereby declared a public nuisance. (Ord. #803, June 2020)

17-116. Interference with containers. No person other than the owner or person lawfully in control of any premises, or any authorized employee of the city or an authorized employee of a person licensed by the city for the collection or removal of garbage, rubbish, or other wastes subject to this chapter, shall interfere in any manner with a container used for the accumulation or handling of garbage, rubbish, or other such waste, or remove any such container from the location where it shall have been placed by the owner or person

lawfully in control of the premises; nor shall any such person remove the contents from any such container. (Ord. #803, June 2020)

17-117. Place for disposal of waste materials. (1) It shall be unlawful for any person to dispose of or cause to be disposed of any garbage, rubbish, or other waste subject to this chapter upon any property other than a garbage dump or sanitary landfill or as otherwise provided by the provisions of this chapter.

(2) It shall be unlawful for any person to deposit or permit or suffer his agents, servants or employees to deposit garbage, yard refuse or other waste subject to this chapter in or about the anti-litter cans or like receptacles provided by the city in various public places in the community. (Ord. #803, June 2020)

17-118. Littering prohibited. It shall be unlawful for any person to place any garbage, straw, dirt, chips, shells, nails, iron, glass, fruit peelings, melon rinds, paper shavings, rags or other rubbish, limbs, leaves, trimmings, stumps, or obnoxious substance on any street, sidewalk, alley, public park, parkway, drainage ditch, sewer easement, other utility easements, square or other place in the city, or on the property of another person, or to violate any of the requirements of this chapter. The violation of any of the requirements of this chapter shall be punishable as provided in this city code. (Ord. #803, June 2020)

17-119. Open burning of garbage prohibited. It is hereby declared to be a misdemeanor for any person to start or maintain, or cause to be started or maintained, any open ground fire or any fire in an open can, barrel or other open container for the purpose of burning or consuming refuse or garbage, upon any property, either public or private, within the city, except as provided in the fire prevention code of the city, and permitted under local and state air pollution control ordinances and regulations. (Ord. #803, June 2020)

17-120. 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. (Ord. #803, June 2020)

17-121. Removal after emptying. After the garbage, brush, limbs or other refuse has been emptied out of a receptacle by employees or contractors of the city, the person owning such receptacle shall remove same from the street or sidewalk as soon as possible and within twenty-four (24) hours after such emptying. (Ord. #803, June 2020)

17-122. Brush pickup. The City of South Pittsburg will pick up brush along city streets on the first (1st) and third (3rd) Wednesdays of each month in

the following areas: State Line to Eighth (8th) Street. The city will pickup brush along city streets on the second (2nd) and fourth (4th) Wednesdays from Eighth (8th) Street to city limits on Sweetens Cove Rd. The city administrator may change the schedule for pickup of brush upon approval in writing by the board of mayor and commissioners and reasonable advance notice to the public. (Ord. #803, June 2020)

17-123. Old furniture and small appliance pickup. The city will provide for the pickup of old furniture and small appliances (HHG) on the first (1st) and third (3rd) Thursdays of each month in the following areas; State Line to Eighth (8th) Street, and from Eight (8th) Street to city limits on Sweetens Cove Rd on the second (2nd) and fourth (4th) Thursdays of each month. (Ord. #803, June 2020)

17-124. Items Prohibited for pick up. (1) Bulky items such as stoves, refrigerators, water tanks, television sets, washing machines.

(2) Tires, automobile or truck parts,

(3) Discarded lawn items such as gym-playground equipment, lawnmowers, grills, or lawn furniture, and

(4) Similar bulky materials having a weight greater than fifty (50) pounds and/or a volume greater than thirty (30) gallons. (Ord. #803, June 2020)

17-125. Sanitation fee assessment. There shall be a sanitation fee charge of seventeen dollars(\$17.00) per household for one (1) ninety-six (96) gallon trash container. Customer will be billed monthly and fee collected by the Board of Water Works and Sewers for the City of South Pittsburg. Garbage rate will be listed on water, sewer and gas bill monthly. One (1) additional cart may be leased from the City of South Pittsburg for a deposit in the amount of one hundred dollars (\$100.00) payable to the City South Pittsburg Tennessee. The request for an additional ninety-six (96) gallon cart may be picked up at city hall and delivered to the address requested by the customer. When property owner or resident moves the additional ninety-six (96) gallon cart is to be returned to the City of South Pittsburg. The maximum number of authorized ninety-six (96) gallon carts per residential household is two (2). (Ord. #803, June 2020)

17-126. Commercial and industrial operations. Commercial and industrial operations will be provided two (2) ninety-six (96) gallon carts for a monthly fee of twenty-three dollars (\$23.00). An additional ninety-six (96) gallon cart can be leased for a one hundred dollar (\$100.00) deposit. The request for an additional trash container may be picked up at city hall and will be delivered to business address. Commercial and industrial operations requiring more than three (3) trash containers (ninety-six (96) gallon carts) shall be required to have dumpster services. All solid waste shall be contained in a closed-lid city-approved trash container. (Ord. #803, June 2020)

17-127. Violations and penalty. Upon final adoption of this chapter, violation of any provision of this chapter is a misdemeanor and subject to a fifty dollar (\$50.00) fine for each violation of the chapter. (Ord. #803, June 2020)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER AND SEWERS.
2. GENERAL WASTEWATER REGULATIONS.
3. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
4. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.
5. MISCELLANEOUS.

CHAPTER 1

WATER AND SEWERS

SECTION

- 18-101. Board of waterworks and sewerage commissioners.
 18-102. Fluoridation of water.
 18-103. Water and sewer rates and charges.

18-101. Board of waterworks and sewerage commissioners. The custody, administration, operation, maintenance, and control of the waterworks and sewerage systems of the City of South Pittsburg are hereby placed in a board of waterworks and sewerage commissioners appointed by the board of mayor and commissioners.²

The first board shall be appointed so that the term of one member shall expire on June 30th in each odd numbered year thereafter. (2005 Code, § 18-101)

18-102. Fluoridation of water. The board of waterworks and sewerage commissioners is authorized and instructed to make plans for the fluoridation of the water supply of the city; to submit such plans to the state health department for approval; and, upon approval, to add such chemicals as fluoride

¹Municipal code references

Building, utility, and residential codes: title 12.

Refuse disposal: title 17.

²Provisions relating to qualifications, terms, oaths, removal, etc., of members of the board of waterworks and sewerage commissioners and a description of the board's powers and duties are presently codified in *Tennessee Code Annotated*, §§ 7-35-401 to 7-35-432.

to the water supply in accordance 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 system. (2005 Code, § 18-102)

18-103. Water and sewer rates and charges. All water and sewer services furnished by the city shall be furnished under such rate schedules and shall be subject to such charges as the board of mayor and commissioners may from time to time prescribe. (2005 Code, § 18-103)

CHAPTER 2

GENERAL WASTEWATER REGULATIONS

SECTION

- 18-201. Purpose and policy.
- 18-202. Administrative.
- 18-203. Definitions.
- 18-204. Proper waste disposal required .
- 18-205. Private domestic wastewater disposal.
- 18-206. Connection to public sewers.
- 18-207. Septic tank effluent pump or grinder pump wastewater systems.
- 18-208. Regulation of holding tank waste disposal or trucked-in waste.
- 18-209. Discharge regulations.
- 18-210. Enforcement and abatement.

18-201. Purpose and policy. This chapter sets forth uniform requirements for users of the City of South Pittsburg, Tennessee, wastewater treatment system and enables the city to comply with the Federal Clean Water Act and the State Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

- (1) To protect public health;
- (2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;
- (3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;
- (4) To protect facility personnel who may be affected by wastewater, wastewater borne components, and sludge in the course of their employment and the general public;
- (5) To promote reuse and recycling of industrial wastewater and sludge from the facility;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and
- (7) To enable the city to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the City of South Pittsburg must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

This chapter shall apply to all users inside or outside the city who are, by implied contract or written agreement with the city, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 3 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 3 details permitting requirements including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. (Ord. #787, March 2018)

18-202. Administrative. Except as otherwise provided herein, the manager of the board of waterworks and sewerage commissioners of the city shall administer, implement, and enforce the provisions of this chapter. (Ord. #787, March 2018)

18-203. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Administrator." The administrator or the United States Environmental Protection Agency.

(2) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. § 1251, *et seq.*

(3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(4) "Authorized or duly authorized representative of industrial user":

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can insure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit

requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in paragraphs (a)-(c), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(5) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-209 of this chapter. BMPs also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees Centigrade (20° C) centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(8) "Categorical standards." The national categorical pretreatment standards as found in 40 CFR chapter I, subchapter N, parts 405-471.

(9) "City." The board of mayor and commissioners, City of South Pittsburg, Tennessee, and/or the board of waterworks and sewerage commissioners as established by the board of mayor and commissioners.

(10) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(11) "Compatible pollutant." Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(12) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(13) "Control authority." The term "control authority" shall refer to the "approval authority," defined herein above; or the local hearing authority if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

(14) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(15) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(16) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(17) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

(18) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(19) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(20) "Environmental Protection Agency, 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.

(21) "Fats, Oils, and Grease (FOG)." Organic polar compounds derived from animal and/or plant sources. If lab testing is required to quantify the amount of FOG, the hexane extractable material test is to be used or an equivalent 40 CFR 136 approved method.

(22) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(23) "Grab sample." A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection

of effluent samples by approximately one detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(24) "Grease interceptor." An interceptor whose rated flow is fifty (50) g.p.m. (gallons per minute) or less and is generally located inside the building.

(25) "Grease trap." An interceptor whose rated flow is fifty (50) g.p.m. or more and is located outside the building.

(26) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(27) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(28) "Indirect discharge." The introduction of pollutants into the WWF from any non-domestic source.

(29) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act (33 U.S.C. §1342).

(30) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(31) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(32) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(33) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(34) "Local administrative officer." The manager of the board of waterworks and sewerage commissioners.

(35) "Local hearing authority." The board of mayor and commissioners or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to section 205.

(36) "National categorical pretreatment standard" Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

(37) "NAICS, North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) System.

(38) "New source." (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or

contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(39) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying pennits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Clean Water Act as amended.

(40) "Pass-through." A discharge which exits the Wastewater Facility (WWF) into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit including an increase in the magnitude or duration of a violation.

(41) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(42) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(43) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(44) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(45) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR section 403.6(d).

(46) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(47) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(48) "Pretreatment standards or standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(49) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C. § 1292) which is owned in this

instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. See WWF, Wastewater Facility, found in definition number (63), below.

(50) "Shall" is mandatory; "May" is permissive.

(51) "Sharps" means any object contaminated with a pathogen or that may become contaminated with a pathogen through handling or during transportation and also capable of cutting or penetrating skin or a packaging material. Sharps includes needles, syringes, scalpels, broken glass, culture slides, culture dishes, broken capillary tubes, broken rigid plastic, and exposed ends of dental wires.

(52) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(53) "Significant noncompliance." Per 0400-40-14-.08(6)(b)8. (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous

limit, or narrative standard) that the: WWF determines has caused, alone or in combination with other discharges, interference, or pass through (including endangering the health of WWF personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-305(l)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(54) "Slug." Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the WWF's regulations, local limits, or permit conditions.

(55) "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.

(56) "State." The State of Tennessee.

(57) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(58) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(59) "Superintendent." The manager of the water works and sewers or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(60) "Surcharge." An additional fee assessed to a user who discharges compatible pollutants at concentrations above the established surcharge limits.

Surcharge limits are the level at which the permit holder will be billed higher rates to offset the cost of treating wastewater which exceeds the surcharge limits. Exceeding a surcharge limit but not a monthly average or daily maximum limit will not result in enforcement action.

(61) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(62) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(63) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(64) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability, *Tennessee Code Annotated*, § 68-221-201.

(65) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

(66) "Wastewater facility" Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or Publicly Owned Treatment Works.

(67) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(68) "0400-44-14." Chapter 0400-40-14 of the *Rules and Regulations of the State of Tennessee, Pretreatment Requirements*. (Ord. #787, March 2018)

18-204. Proper waste disposal required. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter or city or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available property owners shall within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Discharging into the sanitary sewer without permission of the city is strictly prohibited and is deemed "theft of service."

(6) Where a public sanitary sewer is not available under the provisions of (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-205.

(7) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(8) Users have a duty to comply with the provisions of this chapter in order for the city to fulfill the stated policy and purpose. Significant industrial users must comply with the provisions of this ordinance and applicable state and federal rules according to the nature of the industrial discharge.

(9) The city may inspect the facilities, including service lines or building sewer, of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative, with proper identification, ready access at all reasonable times to all parts of the premises for the purpose of inspection. (Ord. #787, March 2018)

18-205. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-204(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the county health department. (Ord. #787, March 2018)

18-206. Connection to public sewers. (1) Application for service.

(a) There shall be two (2) classifications of service:

(i) Residential and

(ii) Service to commercial, industrial and other nonresidential establishments.

In either case, the owner or his agent shall make application for connection on a special form furnished by the city. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include but are not limited to those required by this chapter. Service connection fees for establishing new sewer service are paid to the city. Industrial user discharge permit fees may also apply. The

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

(b) Users shall notify the city of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The city may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of this chapter shall be completely and permanently disconnected within sixty (60) days of the effective day of this chapter. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of ground water shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first submitting a connection application to the city.

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

The applicant is responsible for excavation and installation of the building sewer which is located on private property. The city will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be

constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the manager of the water works and sewers to meet all requirements of this chapter. All others may be sealed to the specifications of the manager of the water works and sewers.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system - Four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: Four inch (4") sewers - one eighth inch (1/8") per foot.

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

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe Schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and one eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only by the city and shall be made at the appropriate existing wyes or tee branch using compression type

couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the manager of the water works and sewers. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.

(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved pump system according to § 18-207 and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications by the ASTM. Any deviation from the prescribed procedures and materials must be approved by the manager of the water works and sewers before installation.

(x) An installed building sewer shall be gaslight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections. (i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the manager of the water works and sewers or his authorized representative.

(ii) The applicant for discharge shall notify the manager of the water works and sewers when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the manager of the water works and sewers or his representative.

(4) Maintenance of building sewers. (a) Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the manager of the water works and sewers to meet specifications of the city. Owners failing to maintain or repair building sewers or who allow stormwater or ground water to enter the sanitary sewer may face enforcement action by the manager of the water works and sewers up to and including discontinuation of water and sewer service.

(b) The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with.

(c) The point of division between the building sewer and the city owned sewer tap or service connection shall be at the property line, right-of-way line, property line sewer cleanout, or such point in this general area as identified by the manager of the water works and sewers. The city owned tap or service line connection cannot extend onto private property except that minimal distance to the edge of right-of-ways, easements, or that distance necessary to cross other city utility lines and provide a location unencumbered by other underground city utilities where the user can make a connection to the building sewer without risk of damage to those other city utilities.

(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the city. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the manager of the water works and sewers or manager of the wastewater collection system. All plans and construction must follow the latest edition of *Tennessee Design Criteria for Sewerage Works*, located at <http://www.tennessee.gov/environment/section/wr-water-resources>. Contractors must: provide the manager of the water works and sewers or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The manager of the water works and sewers or manager must give written approval to the contractor to acknowledge transfer of ownership to the city. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (Ord. #787, March 2018)

18-207. Septic tank effluent pump or grinder pump wastewater systems. When connection of building sewers to the public sewer by gravity flow

lines is impossible due to elevation differences or other encumbrances, Grinder Pump (GP) systems may be installed subject to the regulations of the city.

(1) Equipment requirements. Pumps must be approved by the city.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the city. Installation shall follow design criteria for GP systems as provided by the superintendent.

(3) Costs. GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the city and connection will be made to the city sewer only after inspection and approval of the city.

(4) Ownership and easements. Owner will be responsible for the grinder pump, replacement and maintenance costs and retain ownership of the equipment and provide an easement for access to perform necessary maintenance or repair. Access by the city to the GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use of GP systems. Prohibited uses of the GP system:

- (a) Connection of roof guttering, sump pumps or surface drains.
- (b) Disposal of toxic household substances.
- (c) Use of garbage grinders or disposers.
- (d) Discharge of pet hair, lint, or home vacuum water.
- (e) Discharge of fats, grease, and oil.

(6) Additional charges. In the event that the users fail to properly operate and maintain grinder pump and appurtenances and the city must enter to protect public health and/or the environment, the user shall transfer ownership of the equipment to the city but continue to provide electricity to the unit, provide an operation and maintenance easement, hold the city harmless and will be subject to a differential rate on a higher level of service. (Ord. #787, March 2018)

18-208. Regulation of holding tank waste disposal or trucked in waste. (1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains a written approval from the city to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the manager of the water works and sewers when the conditions of this chapter have been met and providing the manager of the water works and sewers is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the city to be set as specified in § 18-307. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The manager of the water works and sewers shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The manager of the water works and sewers may refuse to accept any truckload of waste at his discretion where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the manager of the water works and sewers. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of South Pittsburg.

(5) Trucked in waste. This part includes waste from trucks, railcars, barges, etc., or temporarily pumped waste, all of which are prohibited without a permit issued by the manager of the water works and sewers. This approval may require testing, flow monitoring and record keeping. (Ord. #787, March 2018)

18-209. Discharge regulations. (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of this section or other pretreatment standard may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-210 or 18-305.

(2) Specific prohibitions. A user may not contribute the following substances to any WWF:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or to the operation of the WWF. Prohibited flammable materials including, but not limited to, waste streams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140° F) or sixty degrees Centigrade (60°) C using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and other flammable substances.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: flushable or non-flushable wipes, grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes, any medical supplies such as sponges, bandages, catheters whether of natural or synthetic components, "sharps" such as hypodermic needles or syringes, scalpel blades, acupuncture needles, broken glass, slides and cover slips, or other items with acute ridged comers, edges or protuberances.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds forty degrees Centigrade (40°C) one hundred four degrees Fahrenheit (104° F) unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.

(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(i) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent or any other product of the WWF such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the WWF cause the WWF to be in non-compliance with sludge use or disposal criteria, 40 CFR 503, guidelines, or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the manager of the water works and sewers in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(s) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(3) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 3 may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(4) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A - Plant Protection Criteria; unless specifically allowed by their discharge permit according to chapter 3 of this title: Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A Plant Protection Criteria

Parameter	Maximum Concentration (mg/l)
Benzene	0.01304
Cadmium	0.03333
Carbon Tetrachloride	1.5
Chloroform	0.22368
Chromium (total)	0.23077
Chromium III	0.23077
Chromium VI	0.23077
Copper	0.38095
Cyanide	0.10
Ethylbenzene	0.040

Table A Plant Protection Criteria

Parameter	Maximum Concentration (mg/l)
Lead	0.100
Mercury	0.00125
Methylene chloride	0.09615
Naphthalene	0.0125
Nickel	0.818
Phenol	0.250
Silver	0.04167
Tetrachloroethylene	0.13889
Toluene	0.21429
Total Phthalate	0.16974
Trichloroethylene	0.100
1,1,1-Trichloroethane	0.250
1,2 Transdichloroethylene	0.0075
Zinc	0.43478

(5) Removal of fat, oil, and grease. The commissioners of South Pittsburg encourages all users of the sanitary sewer system to take voluntary steps to reduce the amount of fats, oils, and grease that is poured, drained or washed down drains into the sanitary sewer system.

(a) Definitions. In the interpretation and application of this ordinance the following words and phrases shall have the indicated meanings:

(i) Fats, Oils, and Grease (FOG). Organic polar compounds derived from animal and/or plant sources. If lab testing is required to quantify the amount of FOG, the hexane extractable material test is to be used or an equivalent 40 CFR 136 approved method.

(ii) Food Service Establishment (FSE). Any establishment, business or facility engaged in preparing, serving or making food available for consumption. Single family residences

are not a FSE, however, multi-residential facilities may be considered a FSE at the discretion of the manager of the water works and sewers. FSEs are classified as follows:

(A) Class 1: Deli-engaged in the sale of cold-cut and microwaved sandwiches/subs with no frying or grilling on site, ice cream shops and beverage bars as defined by North American Industrial Classification System (NAICS) 722515 or mobile food vendors as defined by NACIS 722330. Bed and breakfast establishments as defined by NACIS 72119.

(B) Class 2: Limited-service restaurants (a.k.a. fast food facilities) as defined by NACIS 722513 except fast food with a food line that is heavily fried and a history of FOG discharges that interfere with the sanitary sewer system, and catering as defined by NACIS 722320.

(C) Class 3: Full service restaurants as defined by NACIS 722110.

(D) Class 4: Buffet and cafeteria facilities as defined by NACIS 72212.

(E) Class 5: Institutions (schools, hospitals, prisons, etc.) as defined by NACIS 722310 but not to exclude self-run operations.

(iii) Grease, brown. Fats, oils, and grease that are discharged to the grease control equipment.

(iv) Grease, yellow. Fats, oils, and grease that have not been in contact with or contaminated from other sources such as water, wastewater, solid waste and can be readily recycled.

(v) Grease Control Equipment (GCE). A device for separating and retaining wastewater FOG prior to the wastewater exiting the FSE property and entering into the sanitary sewer system. GCE includes grease traps and grease interceptors or other devices approved by the manager of water works and sewers.

(vi) Grease interceptor. An interceptor whose rated flow exceeds fifty (50) gallons per minute (g.p.m.) and is located outside the building.

(vii) Grease trap. An interceptor whose rated flow is fifty (50) g.p.m. or less and is typically located inside the building.

(viii) Grease recycle container. A container used for the storage of yellow grease for recycling.

(ix) Interceptor. A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity flow.

(x) Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the sanitary sewer collection operation, the treatment processes or operations, or the sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(xi) Tee (influent and effluent). A T-shaped pipe attached to the horizontal influent and effluent pipes of a grease interceptor and extending downward into the trap to depths specified by design which on the influent side forces influent flow into the center of the trap and prevents floating FOG from escaping the effluent pipe.

(xii) Black water. Wastewater containing human waste from sanitary fixtures such as toilets and urinals.

(xiii) Gray water. Refers to all other wastewater other than black water.

(b) Discharge of FOG. "No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the wastewater facility." Prohibited discharges include, "Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two (32) or one hundred fifty degrees (150°) Fahrenheit or (zero to sixty-five degrees Centigrade (0 to 65° C))."

(c) Interference with the sanitary sewer system operations. Any user who discharges animal and vegetable fat, oil, and grease in the volume or form which interferes with the operation of the sanitary sewer system may be subject to enforcement actions as specified in § 18-210 of this chapter and may be billed for cleanup charges incurred by the city when that user's discharge causes operation and maintenance problems in the sanitary sewer system such as blockages, backups, overflows, interruption of service, excessive FOG accumulation in lift stations and pipes, and other FOG related problems that are tracked to that user's discharge.

(d) Control of FOG. (i) All existing and new FSEs shall effectively control the discharge of FOG into the sanitary sewer system. A Class 1 FSE may do this through the use of restaurant industry best management practices such as those published by the National Restaurant Association.¹ If best management practices fail to prevent sanitary sewer system interferences Class

¹See: <http://www.foodserviceresource.com/FORMS%20&%20PDFS/FOG ToolKit.pdf>.

1 FSEs shall install Grease Control Equipment (GCE) as specified in subsection § 18-209(5)(a)(v), or by the superintendent.

(ii) All new Class 2-5 FSEs shall install grease control equipment in sizes specified in § 18-209(5)(a)(v) or by the manager of the water works and sewers and properly maintain that equipment in such a way to prevent interference with the sanitary sewer system.

(iii) Existing FSEs that do not meet these minimum sizes may continue to use existing GCE and/or best management practices if the discharge from the FSE is not interfering with the sanitary sewer system and the manager of the water works and sewers gives written permission stating that the current GCE and practices are preventing interference with the sanitary sewer system. Upon written notice from the manager of the water works and sewers that the existing GCE or BMPs are inadequate to protect the sanitary sewer system from interference, the FSE shall have 60 days to install additional GCE to prevent FOG interference with the sanitary sewer system.

(iv) All FSEs with GCE shall maintain records of cleaning and maintenance of that equipment. Records include at a minimum the date of cleaning or maintenance, company or person conducting the cleaning or maintenance, and the amount of grease and water removed from the equipment. A grease waste hauler completed manifest will meet this requirement.

(v) Yellow grease such as fryer oil, shall not be discharged into the GCE or into stormwater conveyances. The use of yellow grease recycling containers is encouraged.

(vi) Owners of commercial property will be held responsible for wastewater discharges from FSE leaseholders on their property.

(vii) All FSEs shall provide access to city utility personnel (after proper identification) for the purpose of inspection of GCE, kitchen equipment and practices, and any cleaning and drain remediation products which relate to the wastewater and FOG discharge.

(e) Grease Control Equipment (GCE). (i) Minimum acceptable size of GCE is as follows. Larger sizes may be required by the superintendent.

- (A) Class 1: 20 gpm/40 lbs grease trap.
- (B) Class 2: 500 gallon grease interceptor.
- (C) Class 3: 1,000 gallon grease interceptor.
- (D) Class 4: 1,500 gallon grease interceptor.
- (E) Class 5: 2,000 gallon grease interceptor.

(ii) Any FSE either new or existing that is found by the manager of the water works and sewers to be interfering with the

sanitary sewer system may be asked to install GCE that is larger than the minimum size and take other steps to stop that interference.

(iii) Existing FSEs that do not meet these minimum sizes may continue to use existing GCE and/or best management practices if the discharge from the FSE is not interfering with the sanitary sewer system and the manager of the water works and sewers gives written permission stating that the current GCE and practices are preventing interference with the sanitary sewer system. Upon written notice from the manager of the water works and sewers that the existing GCE or BMPs are inadequate to protect the sanitary sewer system from interference, the FSE shall have sixty (60) days to install additional GCE to prevent FOG interference with the sanitary sewer system.

(iv) Additionally FSEs that discharge the water from dishwashing machines through a grease interceptor shall install a GCE which is larger than the minimum to allow for cooling of the discharge and thereby prevent discharge of FOG into the sanitary sewer system.

(v) Grease traps. These small, under-the-counter units shall be installed according to drawings provided by the superintendent and shall include vented flow restrictor prior to the trap. Dishwashing machines shall not be installed onto these units. Failure to follow this requirement will render the trap ineffective and the FSE shall be instructed to install a large external grease interceptor.

(f) Installation of GCE. (i) Owners/users are responsible for installation of the GCE.

(ii) Grease traps shall be installed according to the requirements in § 18-209(5)(a)(v).

(iii) Grease interceptors shall be substantially similar to sample drawings available from the manager of the water works and sewers.

(iv) Tanks must be water tight and protected from rainwater inflow and infiltration.

(v) Two (2) access manholes with a minimum of twenty-four inch (24") diameter shall be provided, one (1) directly over the influent pipe and Tee and one directly over the effluent pipe and Tee.

(vi) Influent and effluent pipes shall be four inch (4") or larger PVC Schedule 40 or stronger.

(vii) Influent and effluent pipes shall be equipped with Tee fittings properly positioned as follows. Influent flow shall be directed downward and the Tee shall terminate twenty four inches

(24") below the water surface. Effluent Tee shall block all surface grease and terminate twelve inches (12") above the bottom of the unit.

(viii) The tank shall be constructed to have two (2) compartments. Two thirds ($2/3$) of the volume shall be in the influent side and one third ($1/3$) on the effluent side. A solid baffle wall shall extend from the bottom to within 6" of the top and shall be equipped with a six inch (6") elbow installed in the baffle wall with drawing flow from the influent side of the unit at a depth of twelve inches (12") from the bottom.

(ix) Manhole covers shall be of materials and strength to withstand expected surface loads, and secured to prevent accidental entry.

(x) Interceptors shall be located for effective cleaning and not blocked by structures or landscaping.

(xi) Interceptor sizes greater than two thousand five hundred (2,500) gallons shall be served by two tanks installed in series.

(g) Maintenance of GCE. (i) Owners/users are responsible for maintenance of the GCE.

(ii) Grease traps should be cleaned once every two weeks, or sometimes more often, if the combined depth of FOG and solids exceed fifty percent (50%) of the trap.

(iii) Grease interceptors shall be pumped when the layer of FOG and settled solids combined reaches twenty-five percent (25%) of the tank depth.

(iv) When grease interceptors are pumped, the entire contents, FOG layer, settled solids and water shall be fully removed. No water may be returned to the tank.

(v) Interceptors shall be inspected for deterioration and damage by the waste grease hauler each time the unit is cleaned.

(vi) Deteriorated or damaged tanks shall be repaired or replaced within sixty (60) days of notice of such conditions.

(h) Additives. (i) Additives include but are not limited to products that contain solvents, emulsifiers, surfactants, caustics, acids, enzymes and bacteria. They may be inorganic or organic in origin.

(ii) The use of additives is prohibited with the following exceptions:

(A) Additives may be used to clean FSE drain lines but only in such quantities that will not cause FOG to be discharged from the GCE to the sanitary sewer or cause temporary breakdown of the FOG that will later re-congeal in the downstream sewer pipes.

(B) If a product used can be proven to contain one hundred percent (100%) live bacteria, with no other additives, a request for permission to use the product shall be made to the manager of the water works and sewers. The request must be submitted in writing with a full disclosure material safety data sheet and a certified statement from the manufacturer.

(i) Implementation. This chapter empowers the superintendent to adopt reasonable operating policies to facilitate the implementation of this ordinance. These policies may include but are not limited to: FSE inspections, GCE sizing and maintenance, FSE wastewater discharge testing and monitoring, approval or disapproval of GCE servicing vendors (Grease Waste Haulers), permitting of FSEs, and other operating policies needed to protect the sanitary sewer system from interference from FOG.

(j) Fees. This ordinance empowers the city to establish fees (through a separate fee ordinance) to offset costs associated with the implementation of this chapter. Possible fees include: inspection fees, permitting fees, surcharge fees for high strength discharges, cleanup fees associated with FOG cleanup within the sanitary sewer system, and other fees necessary for implementation of this ordinance.

(k) Permitting. The town may use FSE permits as a way of implementing this chapter, and may further require the permitting or certification of GCE service and pumping vendors. (Ord. #787, March 2018)

18-210. Enforcement and abatement. Violators of these wastewater regulations may be cited to city court, general sessions court, chancery court, or other court of competent jurisdiction face fines, have sewer service terminated or the city may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 3. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the manager of the water works and sewers that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The city may take any or all the following remedies:

(1) Cite the user to city or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the manager of the water works and sewers has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities or workers of the sewerage system, the manager of the water works and sewers may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, including if applicable legal costs, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (Ord. #787, March 2018)

CHAPTER 3

INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

SECTION

- 18-321. Industrial pretreatment.
- 18-302. Discharge permits.
- 18-303. Industrial user additional requirements.
- 18-304. Reporting requirements.
- 18-305. Enforcement response plan.
- 18-306. Enforcement response guide table.
- 18-307. Fees and billing.
- 18-308. Validity.

18-301. Industrial pretreatment. In order to comply with Federal Industrial Pretreatment Rules 40 CFR 403 and Tennessee Pretreatment Rules 0400-40-14 and to fulfill the purpose and policy of these wastewater regulations the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-209 of this chapter.

(2) Users wishing to discharge pollutants at higher concentrations than Table A Plant Protection Criteria of § 18-209, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-305.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as Local Limits, Table B or other applicable state and federal pretreatment rules which may be in effect or take effect after the passage of this chapter.

Table B - Local Limits

Pollutant	Monthly Average* (mg/l)	Daily Maximum (mg/l)
Benzene	0.08412	0.16824

Table B - Local Limits

Pollutant	Monthly Average* (mg/l)	Daily Maximum (mg/l)
Cadmium	0.2140	0.42813
Carbon Tetrachloride	10.6493	21.2987
Chloroform	1.5807	3.1615
Chromium (total)	1.4680	2.9360
Chromium III	1.4680	2.9360
Chromium VI	1.6365	3.2731
Copper	1.6932	3.3864
Cyanide	0.6639	1.3279
Ethybenzene	0.2756	0.55135
Lead	0.6298	1.2597
Mercury	0.00329	0.00659
Methylene chloride	0.6746	1.3492
Naphthalene	0.080	0.160
Nickel	5.654	11.308
Phenol	1.4567	2.91348
Silver	0.2929	0.5859
Tetrachloroethylene	0.9783	1.9566
Toluene	1.5140	3.028
Total Phthalate	1.2029	2.4058
Trichloroethylene	0.7019	1.4039
1,1,1-Trichloroethane	1.7677	3.5355
1,2 Transdichloroethylene	0.04475	0.0895
Zinc	1.4758	2.9517

*Based on twenty-four (24) hour flow proportional composite samples unless specified otherwise.

(5) Surcharge threshold and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge thresholds. Maximum concentrations may also be established for some users.

Table C-Surcharge and Maximum Limits

Parameter	Surcharge Threshold	Maximum Concentration
Total Kjeldahl Nitrogen (TKN)	85 mg/L	
Oil and grease	100 mg/L	
BOD	300 mg/L	
Suspended solids	300 mg/L	

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A - Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the

use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency.

(9) Combined waste stream formula. When wastewater subject to categorical pretreatment standards is mixed with wastewater not regulated by the same standard, the permitting authority may impose an alternate limit using the combined waste stream formula. (Ord. #787, March 2018)

18-302. Discharge permits. (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring addition service or where there is a planned change in the industrial or wastewater treatment process. Connection to the city sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the manager of the water works and sewers, the building sewer is installed in accordance with § 18-206 of this chapter and an inspection has been performed by the manager of the water works and sewers or his representative.

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

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required to apply for a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address, and SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-209 and 18-301 discharge variations -- daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the

application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws.

(D) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary;

(G) Requirement to notify the WWF immediately if changes in the users processes affect the potential for a slug discharge.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

- (B) Requirements for installation and maintenance of inspection and sampling facilities;
- (C) Compliance schedules;
- (D) Requirements for submission of technical reports or discharge reports;
- (E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;
- (F) Requirements for notification of the city sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;
- (G) Prohibition of bypassing pretreatment or pretreatment equipment;
- (H) Effluent mass loading restrictions;
- (I) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the prior written approval of the local administrative officer. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked

in whole or in part during its term for cause including, but not limited to, the following:

- (i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.
- (ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.
- (iii) A change in:
 - (A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;
 - (B) Strength, volume, or timing of discharges;
 - (C) Addition or change in process lines generating wastewater.
- (iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the city's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (Ord. #787, March 2018)

18-303. Industrial user additional requirements. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced

by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 CFR 136 and appropriate EPA guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: For cyanide, total phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are representative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose

of inspection, sampling, records examination and copying or in the performance of any of its duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. The city will utilize qualified city personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance.

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug

discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable counter measures to be taken by the pretreatment coordinator to minimize damage to the WWF, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. #787, March 2018)

18-304. Reporting requirements. Users, whether permitted or non-permitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-305.

(1) Baseline monitoring report. (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 0400-40-14-.06(l)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the manager of the water works and sewers a report which contains the information listed in paragraph (B), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the manager of the water works and sewers a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(i) Identifying Information. The user name, address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula.

(v) Measurement of pollutants.

(A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the manager of the water works and sewers, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 CFR 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with

the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 CFR 136 or other approved methods;

(H) The manager of the water works and sewers may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-304(2).

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-304(14) and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-304(1)(d):

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

(b) No increment referred to above shall exceed nine (9) months.

(c) The user shall submit a progress report to the manager of the water works and sewers no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

(d) In no event shall more than nine (9) months elapse between such progress reports to the manager of the water works and sewers.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the manager of the water works and sewers a report containing the information described in § 18-304(1)(b)(iv) and (v). For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) of this section. All sampling will be done in conformance with subsection (11).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the manager of the water works and sewers submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the manager of the water works and sewers or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this chapter.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the manager of the water works and sewers, using the procedures prescribed in subsection (11) of this section, the results of this monitoring shall be included in the report

(5) Reports of changed conditions. Each user must notify the manager of the water works and sewers of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 60 days before the change.

(a) The manager of the water works and sewers may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-301.

(b) The manager of the water works and sewers may issue an individual wastewater discharge permit under § 18-302 or modify an existing wastewater discharge permit under § 18-302 in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a no routine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the manager of the water works and sewers of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the manager of the water works and sewers, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the manager of the water works and sewers immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the manager of the water works and sewers as the manager of the water works and sewers may require to determine user's status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly

scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation, the user must notify the manager of the water works and sewers within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the manager of the water works and sewers within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-304(5). The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 18-304(1), 18-304(3), and 18-304(4) of this chapter.

(b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 36 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more

than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the manager of the water works and sewers, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued there under, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the manager of the water works and sewers or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in sections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the manager of the water works and sewers. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil

and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-302. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the manager of the water works and sewers.

(14) Certification statements. Signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person

or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Reports required to have signatures and certification statement include, permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (Ord. #787, March 2018)

18-305. Enforcement response plan. Under the authority of *Tennessee Code Annotated*, § 69-3-123 *et. seq.* (1) Complaints: notification of violation; orders:

(a) (i) Whenever the manager of the water works and sewers has reason to believe that a violation of any provision of the South Pittsburg Wastewater Regulations, pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the manager of the water works and sewers may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-305(2), no later than thirty (30) days after the date the order is served; provided, that the local hearing authority may review the final order as provided in *Tennessee Code Annotated*, 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (i) through (iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the city or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation

of the violation and a plan for its satisfactory correction and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the manager of the water works and sewers finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the manager of the water works and sewers finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public

water supply, or the facilities of the WWF, or workers of the WWF, the manager of the water works and sewers may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the manager of the water works and sewers deems necessary to meet the emergency. This emergency authority applies to either permitted, non-permitted, commercial or residential users.

(2) If the violator fails to respond or is unable to respond to the order, the manager of the water works and sewers may take any emergency action as the manager of the water works and sewers deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The manager of the water works and sewers may assess the person or persons responsible for the emergency condition for actual costs incurred by the city in meeting the emergency.

(ii) Appeals from orders of the manager of the water works and (A) Any user affected by any order of the manager of the water works and sewers in interpreting or implementing the provisions of this chapter may file with the manager of the water works and sewers a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the manager of the water works and sewers is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The manager of the water works and sewers order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the manager of the water works and sewers or any person designated by the manager of the water works and sewers, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the manager of the water works and sewers.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following, Under the authority of *Tennessee Code Annotated*, § 69-3-124:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection, the manager of the water works and sewers shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written petition, unless the manager of the water works and sewers and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subdivision (a)(vi). The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the manager of the water works and sewers to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of Marion County has jurisdiction upon the application of the local hearing authority or the manager of the water works and sewers to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the bearing, the local bearing authority shall make findings of fact and conclusions of law and enter decisions and orders that in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (b).

(viii) Any person to whom an emergency order is directed under § 18-305(1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local bearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in *Tennessee Code Annotated*, § 27-8-101, *et seq.* within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the manager of the water works and sewers and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations. Administrative civil penalty. Under the authority of *Tennessee Code Annotated*, § 69-3-125:

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs:

- (A) Unauthorized discharge, discharging without a permit;
- (B) Violates an effluent standard or limitation;
- (C) Violates the terms or conditions of a permit;
- (D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the local hearing authority or the manager of the water works and sewers.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The manager of the water works and sewers may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the manager of the water works and sewers a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the manager of the water works and sewers may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the manager of the water works and sewers may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The manager of the water works and sewers may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the manager of the water works and sewers for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the manager of the water works and sewers shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of *Tennessee Code Annotated*, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by *Tennessee Code Annotated*, § 69-3-115(a) shall not exceed ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders.

Under the authority of *Tennessee Code Annotated*, § 69-3-126:

(a) The manager of the water works and sewers may assess the liability of any polluter or violator for damages to the city resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in

removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the manager of the water works and sewers may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment. Judicial proceedings and relief. Under the authority of *Tennessee Code Annotated*, § 69-3-127.

The manager of the water works and sewers may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or manager of the water works and sewers. In the action, the manager of the water works and sewers may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in 18-302(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations of a wastewater discharge permits, or orders issued hereunder, or for any of the following conditions:

- (a) Violation of wastewater discharge permit conditions.
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge.
- (c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- (e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-209.
- (f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordinator.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties--special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of non-compliance. (a) Insignificant non-compliance: For the purpose of this guide, insignificant non-compliance is considered a relatively minor infrequent violation of pretreatment standards or

requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV).

(b) "Significant noncompliance." Per 0400-40-14-.08(6)(b)8.

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-305(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(v) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation of implementation of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed

limits by more than 0.5 s.u. more than eight (8) times in four (4) hours. Any significant non-compliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).¹

(9) Public notice of the significant violations. The manager of the water works and sewers shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (C), (D) or (H) of this section) and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH), TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement (daily maximum of longer-tenn average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the manager of the water works and sewers exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to accurately report noncompliance; or

¹The Enforcement Response Guide Table (Appendix A) is available in the recorder's office.

(g) Any other violation(s), which may include a violation of best management practices, which the manager of the water works and sewers determines will adversely affect the operation or implementation of the local pretreatment program.

(h) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the manager of the water works and sewers and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (Ord. #787, March 2018)

18-306. Enforcement response guide table. (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this chapter.

(2) Enforcement response guide table.¹ The applicable officer shall use the schedule found in Appendix A to impose sanctions or penalties for the violation of this chapter. (Ord. #787, March 2018)

18-307. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the city's schedule of charges and fees may include but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees (see Table C);
- (e) Waste hauler permit;
- (f) Fees to recover the cost of damage or interference caused by a user;
- (g) Industrial wastewater discharge permit fees;
- (h) Fees for industrial discharge monitoring; and
- (i) Other fees as the city may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-302.

¹The Enforcement Response Guide Table (Appendix A) is available in the office of the recorder.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city's sewer department at the time the application is filed.

(5) Sewer user charges.¹ The board of mayor and commissioners shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-307.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violation are categorized in the Enforcement Response Guide Table (Appendix A). The local administrative officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 1	No penalty
Category 2	\$50.00-\$500.00
Category 3	\$500.00-\$1,000.00
Category 4	\$1,000.00-\$5,000.00
Category 5	\$5,000.00-\$10,000.00

(Ord. #787, March 2018)

18-308. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works wider the jurisdiction of the city. (Ord. #787, March 2018)

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

CHAPTER 4

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-401. Definitions.
- 18-402. Standards.
- 18-403. Construction, operation, and supervision.
- 18-404. Statement required.
- 18-405. Inspections required.
- 18-406. Right of entry for inspections.
- 18-407. Correction of existing violations.
- 18-408. Use of protective devices.
- 18-409. Unpotable water to be labeled.
- 18-410. Location of premises served.
- 18-411. Violations and penalty.

18-401. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

- (1) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.
- (2) "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.
- (3) "Cross-connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside 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 any other arrangement.
- (4) "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.
- (5) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.
- (6) "Public water supply." The waterworks system furnishing water to the City of South Pittsburg, Tennessee for general use and which supply is recognized as the public water supply by the Tennessee Department of Health and Environment. (2005 Code, § 18-401)

¹Municipal code reference

Plumbing and related codes: title 12.

18-402. Standards. The South Pittsburg Public Water Supply is to comply with *Tennessee Code Annotated*, §§ 68-221-701 to 68-221-719 as well as the *Rules and Regulations for Public Water Supplies*, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, by-passes, and inter-connections, and establish an effective, ongoing program to control these undesirable water uses. (2005 Code, § 18-402)

18-403. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross-connection to be made; or allow one (1) to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment, and the operation of such cross-connection, auxiliary intake, by-pass or inter-connection is at all times under the direct supervision of the Manager, Water and Sewer Department of the City of South Pittsburg. (2005 Code, § 18-403)

18-404. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the manager, water and sewer department a statement of the non-existence of unapproved or unauthorized auxiliary intakes, by-passes, or inter-connections, such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or inter-connection will be permitted upon the premises. (2005 Code, § 18-404)

18-405. Inspections required. It shall be the duty of the South Pittsburg Public Water Supply to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved shall be established by the Manager of the South Pittsburg Public Water Supply and as approved by the Tennessee Department of Health and Environment. (2005 Code, § 18-405)

18-406. Right of entry for inspections. The manager, water sewer department or his authorized representative shall have the right to enter at any reasonable time any property served by a connection to the South Pittsburg 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. (2005 Code, § 18-406)

18-407. 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 Manager, Water and Sewer Department of the City of South Pittsburg Public Water Supply.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the *Tennessee Code Annotated*, § 68-221-711, within a reasonable time and within the time limits set by the South Pittsburg Public Water Supply, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two (2) systems cannot again be connected by an unauthorized person.

Where cross-connections, inter-connections, auxiliary intakes, or by-passes are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the manager of the utility shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (2005 Code, § 18-407)

18-408. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation;
- (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the system; or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply;
- (3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing; or
- (4) There is a likelihood that protective measures may be subverted, altered, or disconnected.

The Manager, Water and Sewer Department of the South Pittsburg Public Water Supply, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health and Environment as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the Manager, Water Sewer Department Public Water Supply prior to installation and shall comply with the

criteria set forth by the Tennessee Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the South Pittsburg Public Water Supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the manager, water and sewer department or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one (1) unit has been installed and the continuance of service is critical, the manager, water and sewer department shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water supply shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the Manager, Water and Sewer Department of the South Pittsburg Public Water Supply.

If necessary, water service shall be discontinued following legal notification for failure to maintain backflow prevention devices in proper working order. Likewise, the removal, by-passing, or altering of the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the South Pittsburg Public Water Supply. (2005 Code, § 18-408)

18-409. Unpotable water to be labeled. The potable water supply made available to premises 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 at least one inch (1") high located on a red background. (2005 Code, § 18-409)

18-410. Location of premises served. The requirements contained herein shall apply to all premises served by the South Pittsburg Board of Water Works and Sewers whether located inside or outside the corporate limits and are

hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the South Pittsburg corporate limits. (2005 Code, § 18-411)

18-411. Violations and penalty. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), and each day of continued violation after conviction shall constitute a separate offense. (2005 Code, § 18-410, modified)

CHAPTER 5

MISCELLANEOUS

SECTION

- 18-501. Building permit required for utility connections.
- 18-502. Certificate of occupancy required for utility service.
- 18-503. Permit required for utility service to mobile homes.
- 18-504. Enforcement.
- 18-505. Violations and penalty.

18-501. Building permit required for utility connections. No public or private utility department, company, or corporation shall connect utilities to any new building or structure until the property owner shall present a valid building permit, signed by the building inspector, for that structure. (2005 Code, § 18-501)

18-502. Certificate of occupancy required for utility service. No public or private utility department, company, or corporation shall begin service, turn on water, electricity, or gas, or in any way furnish service to a structure until the property owner shall present a valid certificate of occupancy, signed by the building inspector, for that structure. (2005 Code, § 18-502)

18-503. Permit required for utility service to mobile homes. Requiring a mobile home permit for initiation of service: no public or private utility department, company, or corporation shall begin service, turn on water, electricity, or gas, or in any way furnish service to a mobile home until the mobile home owner or lessee shall present a valid mobile home permit, signed by the building inspector. (2005 Code, § 18-503)

18-504. Enforcement. It shall be the duty and responsibility of the building inspector to enforce and administer the provisions of this chapter. (2005 Code, § 18-504)

18-505. Violations and penalty. (1) Any person or corporation who violates the provisions of this chapter or fails to perform the reasonable requirements of the city building inspector after receipt of thirty (30) days' written notice of such requirements, shall be guilty of a misdemeanor.

(2) If a utility department, company, or corporation does connect with the system of a structure or initiates service in violation of this chapter, the city building inspector shall direct that department, company, or corporation to close the connection and discontinue service at the department, company, or corporation's expense.

(3) Any violation of this chapter shall be punishable under the general penalty clause for this code of ordinances. (2005 Code, § 18-505)

TITLE 19**ELECTRICITY AND GAS****CHAPTER****1. GAS.****CHAPTER 1****GAS****SECTION**

19-101. Board of waterworks and sewers and Marion Natural Gas System Board.

19-102. Gas rates and charges.

19-103. Distribution or sale of propane or other liquefied petroleum gases.

19-101. Board of waterworks and sewers and Marion Natural Gas System Board. The custody, administration, operation, maintenance, and control of the natural gas system of the City of South Pittsburg, which shall be known as the "Marion Natural Gas System," has been placed in a natural gas board composed of the same members as the South Pittsburg Board of Waterworks and Sewage Commissioners. The members of the natural gas board shall receive no compensation for their services. The members of the natural gas system board, and the waterworks and sewage board, shall be allowed necessary travel and other expenses while engaged in the business of the boards, including a combined allowance of seventy five dollars (\$75.00) per month for attendance at meetings, when only a single meeting during the month is attended, and one hundred twenty-five dollars (\$125.00) per month when two (2) or more meetings per month are attended. Otherwise, the natural gas board and its members shall be subject to all the provisions prescribed by *Tennessee Code Annotated*, §§ 7-35-401 to 7-35-432 for the board of waterworks and sewerage commissioners and its members.

The funds and receipts of the two (2) boards shall not be intermingled and accurate records as to the interest in the various items of property shall be made and kept. (2005 Code, § 19-101)

19-102. Gas rates and charges. All gas furnished by the city shall be furnished under such rate schedules and shall be subject to such charges as the board of mayor and commissioners may from time to time prescribe. (2005 Code, § 19-102)

19-103. Distribution or sale of propane or other liquefied petroleum gases. (1) The city's natural gas system shall be and hereby is authorized to engage in the distribution and sale of propane or other liquefied

petroleum gases with the same authority and authorization as is currently applicable to its natural gas distribution and sales activities, and that the custody, administration, operation, maintenance, control, and supervision of such propane or similar activities shall be vested in the aforementioned natural gas board as fully as in the case of said natural gas activities.

(2) That all ordinances theretofore adopted dealing with said natural gas system or the natural gas board shall be deemed to be amended as necessary by this section so as to fully confer all necessary power and authority upon said system and said board to operate the above described propane gas and related activities. (2005 Code, § 19-103)

TITLE 20**MISCELLANEOUS****CHAPTER****1. JOINT CIVIL DEFENSE ORGANIZATION.****CHAPTER 1****JOINT CIVIL DEFENSE ORGANIZATION****SECTION**

- 20-101. Marion County Civil Defense Organization created.
- 20-102. Authority.
- 20-103. Responsibilities.
- 20-104. Office of director, his authority and responsibility.
- 20-105. Marion County Civil Defense Corps created.
- 20-106. No municipal or private liability.
- 20-107. Expenses of civil defense.

20-101. Marion County Civil Defense Organization created. There is hereby created the Marion County Civil Defense Organization, which shall be a joint operation by the City of South Pittsburg and the County of Marion, 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 Marion County shall be considered as a total part of the countywide civil defense emergency resources and when any agency operates out of its corporate limits it shall be at the direction of, subordinate to, and as a part of the Marion County Civil Defense Organization. (2005 Code, § 20-101)

20-102. Authority. In accordance with federal and state enactments of law, the Marion 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 emergencies or natural disasters, including but not limited to: storms, floods, fires, explosions, tornadoes, hurricanes, droughts, or peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of Marion County. The Marion County Civil Defense Organization is hereby authorized to perform such duties and functions as may be necessary on account of said disasters. The Marion County Civil Defense Organization is hereby designated the official agency to assist regular forces in time of said emergencies. (2005 Code, § 20-102)

20-103. Responsibilities. The Marion County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Marion County, to establish and coordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (2005 Code, § 20-103)

20-104. 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, recruitment, and training of personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state civil defense 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 and resolution, 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 Marion County Civil Defense Organization, for the preparation of all plans and administrative regulations, and for recruitment and training of personnel. (2005 Code, § 20-104)

20-105. Marion County Civil Defense Corps created. The Marion 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. (2005 Code, § 20-105)

20-106. 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 South Pittsburg nor Marion County, nor 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 used 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. (2005 Code, § 20-106)

20-107. 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; 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 bodies of the city and/or county. 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 South Pittsburg or Marion 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. (2005 Code, § 20-107)

ORDINANCE NO. 832**AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE
CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF
SOUTH PITTSBURG, TENNESSEE.**

WHEREAS, some of the ordinances of the City of South Pittsburg are obsolete, and

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

WHEREAS, the Board of Mayor and Commissioners of the City of South Pittsburg, 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 "South Pittsburg Municipal Code." Now, therefore,

**BE IT ORDAINED BY THE BOARD OF MAYOR AND COMMISSIONERS OF
THE CITY OF SOUTH PITTSBURG, TENNESSEE, THAT:**

Section 1. Ordinances codified. The ordinances of the City of South Pittsburg 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 "South Pittsburg Municipal Code," hereinafter referred to as the "Municipal Code."

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

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this Ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing or authorizing the establishment of a social security system or providing or changing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

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

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.¹

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

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

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

¹State law reference

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

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

PASSED AND APPROVED by the Board of Mayor and Commissioners on the 2nd and final reading on the 9th day of August, 2022.

CITY OF SOUTH PITTSBURG, TENNESSEE

By: Samantha B. B. B.
Samantha Rector, Mayor

ATTEST:

Heather Pickett
Heather Pickett, City Recorder

Passed on First Reading: July 12th, 2022

Date of Public Hearing: Aug. 9th, 2022

Passed on Second Reading: Aug. 9th, 2022