

**THE
SURGOINSVILLE
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

February 2025

TOWN OF SURGOINSVILLE, TENNESSEE

MAYOR

Merrell Graham

VICE MAYOR

Bobby Jarnagin

ALDERMEN

Warren Bishop

Randall Collier

Tim Hoss

Kaley Mierek

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RECORDER/CLERK

Megan Gentry

PREFACE¹

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

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

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

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the town'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 town is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the town agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

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

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

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

Abb Oglesby
Legal Program Manager

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE
TOWN CHARTER

1. An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted in one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. (6-2-102)

2. Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. (6-2-101)

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. DELEGATED DUTIES.
5. CODE OF ETHICS.

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, electrical and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN¹

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Wards.
- 1-105. Number and election of commissioners and mayor.
- 1-106. Date of elections and terms of office.
- 1-107. Quorum.
- 1-108. Installation of new board members.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 6:00 P.M. on the second Monday of each month at the town hall. If the regular meeting falls on a holiday, or on a day observed as a holiday, the regular meeting shall be held at the same time and place on the next regular work day. (Ord. #168-2024, Nov. 2023)

1-102. Order of business. At each regular monthly meeting of the board of mayor and aldermen, 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.

¹Charter references

For charter provisions related to the board of mayor and aldermen, see *Tennessee Code Annotated*, title 6, chapter 3. For specific charter provisions related to the board of mayor and aldermen, see the following sections:

City Administrator: § 6-4-101.

Compensation: § 6-3-109.

Duties of Mayor: § 6-3-106.

Election of the board: § 6-3-101.

Oath: § 6-3-105.

Ordinance procedure

Publication: § 6-2-101.

Readings: § 6-2-102.

Residence requirements: § 6-3-103.

Vacancies in office: § 6-3-107.

Vice-Mayor: § 6-3-107.

- (3) Approval of minutes of the previous meeting.
- (4) Period of public comment.¹
- (5) Communications from the mayor.
- (6) Reports from committees, members of the board of mayor and aldermen, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment.

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

1-104. Wards. (1) The municipality shall consist of one (1) ward.
 (2) For the purpose of holding municipal elections, only one polling place shall be used, which shall be the polling place designated by the Hawkins County Election Commission for the purpose of holding general elections. (2007 Code, § 1-104)

1-105. Number and election of commissioners and mayor. (1) The officers of the municipality shall consist of a mayor and six (6) aldermen, who shall be elected at large from the municipality. Of the candidates for mayor, the person receiving the largest number of votes shall be elected. Of the candidates for alderman, the six (6) persons receiving the largest number of votes shall be elected. In case of a tie for the office of mayor and/or alderman, a run-off election shall be held.

(2) The terms of the mayor and aldermen elected on the 12th day of January, 1991 shall be extended to the date of the regular general election in November, 1994, which date is the first Tuesday after the first Monday in November, 1994, or until their successors are elected and qualified.

(3) At the municipal election held on the first Tuesday after the first Monday in November, 1994:

(a) The mayor shall be elected for a term of four (4) years, or until his successor is elected and qualified;

(b) The three aldermen receiving the highest number of votes shall be elected for terms of four (4) years or until their successors are elected and qualified; and

¹Period of public comment as referenced in *Tennessee Code Annotated*, § 8-44-112.

(c) The three aldermen receiving the lowest number of votes shall be elected for terms of two (2) years or until their successors are elected and qualified.

(4) At each and every municipal election following the election held on the first Tuesday after the first Monday in November, 1994, the terms of the mayor and/or the aldermen elected to office in that particular election shall be four (4) years or until their successors are elected and qualified.

(5) Employees are hereby authorized to qualify for election to hold office on the board of mayor and aldermen, provided they meet other qualifying requirements of state or local laws. (2007 Code, § 1-105, as amended by Ord. #115-2015, Sept. 2015)

1-106. Date of elections and terms of office. An election for the offices of mayor and aldermen of the municipality shall be held in conjunction with the general election as set by the Hawkins County Election Commission. The officers elected shall serve for a term of four (4) years and until their successors are duly elected. (2007 Code, § 1-106)

1-107. Quorum. At any meeting of the board of mayor and aldermen, a majority of the members shall constitute a quorum, which shall be required for the transaction of business. (2007 Code, § 1-107)

1-108. Installation of new board members. (1) Establishing day of installation. The newly elected and certified officials will assume their seats of office on the first meeting date of the board of mayor and alderman, after notification of the certified election results by the Hawkins County Election Commission.

(2) Time of installation. After completion of the old business by the current board of mayor and aldermen members, the newly elected officials shall be administered the oaths of office, before any officer authorized to administer oaths and will then take their official seat to conduct the new business of the board of mayor and aldermen meeting. (Ord. #71-2008, June 2008)

CHAPTER 2

MAYOR¹

SECTION

- 1-201. Mayor to run day to day business.
- 1-202. Executes town's contracts.
- 1-203. Voting rights.
- 1-204. Purchasing limits.

1-201. Mayor to run day to day business. The Mayor of the Town of Surgoinsville shall run the day to day business, with extreme actions to be done on a temporary basis, also noting any insubordination by employees could be grounds for immediate dismissal, until the next scheduled meeting of the board of mayor and aldermen. (2007 Code, § 1-201)

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (2007 Code, § 1-202)

1-203. Voting rights. The mayor shall have a right to vote on matters before the board. (2007 Code, § 1-203)

1-204. Purchasing limits. The mayor shall not make major purchases in excess of five hundred dollars (\$500.00) until a vote is taken by the board of mayor and aldermen. (2007 Code, § 1-204)

¹Charter references

For charter provisions related to the mayor, see *Tennessee Code Annotated*, title 6, chapter 3. For specific charter provisions related to the mayor, see the following sections:

Vacancies in office: § 6-3-107.

Vice-Mayor: § 6-3-107.

CHAPTER 3

RECORDER¹

SECTION

- 1-301. To be bonded.
- 1-302. To keep minutes, etc.
- 1-303. To perform general administrative duties, etc.
- 1-304. Appointment.
- 1-305. Ordinance numbering, etc.

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of mayor and aldermen. (2007 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (2007 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the town which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers. (2007 Code, § 1-303)

1-304. Appointment. The recorder shall be appointed by the board of mayor and aldermen for an indefinite term, serving at the will and pleasure of the board. (2007 Code, § 1-304)

1-305. Ordinance numbering, etc. Ordinances having their final readings and/or first considered in a meeting held in and after the year 2000 A.D. will be assigned a consecutive number by the town recorder beginning with the number, 0-2001, and thereafter the numbers in order. Proposed ordinances will be referred to in the minute book by the assigned caption. Those proposed ordinances that have passed first reading will likewise be referred to by their caption. Those ordinances which have passed on two (2) separate readings and

¹Charter references

City recorder: § 6-4-201 et seq.

Recorder as treasurer: § 6-4-401(c).

review by the board of mayor and alderman will be assigned the appropriate number by the recorder at the conclusion of the voting. (2007 Code, § 1-305)

CHAPTER 4

DELEGATED DUTIES

SECTION

- 1-401. Recorder to perform administrative duties.
- 1-402. Recorder to fill position of treasurer.
- 1-403. Recorder as purchasing agent.
- 1-404. Finance director to prepare annual budget.
- 1-405. Board of mayor and aldermen to manage personnel.
- 1-406. Maintenance and street superintendents' duties.
- 1-407. Public safety officer's duties.
- 1-408. Public relations officer's duties.
- 1-409. Recreation officer to act as liaison.

1-401. Recorder to perform administrative duties. The administrative duties set forth in *Tennessee Code Annotated*, § 6-4-101, shall be performed by the recorder. (2007 Code, § 1-401)

1-402. Recorder to fill position of treasurer. The recorder shall also fill the position of treasurer for the Town of Surgoinsville. (2007 Code, § 1-402)

1-403. Finance director to prepare annual budget. The finance director shall prepare and submit the annual budget and capital program to the board for its adoption by ordinance. (2007 Code, § 1-403)

1-404. Board of mayor and aldermen to manage personnel. The board of mayor and aldermen shall employ, promote, discipline, suspend, and discharge all employees and department heads, in accordance with personnel policies and procedures, if any are adopted by the board of mayor and aldermen. (2007 Code, § 1-404)

1-405. Maintenance and street superintendents' duties. The maintenance and street superintendents shall oversee all functions of the maintenance and street departments. (2007 Code, § 1-405)

1-406. Public safety officer's duties. The public safety officer shall be responsible for reporting all street light problems as well as other areas of concern involving general public safety. (2007 Code, § 1-406)

1-407. Public relations officer's duties. The public relations officer shall oversee matters concerning the betterment of relations of the Town of Surgoinsville with the general public. (2007 Code, § 1-407)

1-408. Recreation officer to act as liaison. The recreation officer shall act as liaison between board of mayor and aldermen and parks and recreation organization. (2007 Code, § 1-408)

CHAPTER 5

CODE OF ETHICS¹

SECTION

- 1-501. Applicability.
- 1-502. Definition of "personal interest."
- 1-503. Disclosure of personal interest by official with vote.
- 1-504. Disclosure of personal interest in non-voting matters.
- 1-505. Acceptance of gratuities, etc.
- 1-506. Use of information.
- 1-507. Use of municipal time, facilities, etc.
- 1-508. Use of position or authority.
- 1-509. Outside employment.

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

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

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

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

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

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

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

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

A brief synopsis of each of these laws appears in Appendix A of this municipal code.

1-510. Ethics complaints.

1-511. Violations and penalty.

1-501. Applicability. This chapter is the code of ethics for personnel of the Town of Surgoinsville. 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 town. The words "municipal" and "Town of Surgoinsville" include these separate entities. (2007 Code, § 1-501)

1-502. Definition of "personal interest." (1) For the purposes used hereafter, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (2007 Code, § 1-502)

1-503. 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. (2007 Code, § 1-503)

1-504. 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

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

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. (2007 Code, § 1-504)

1-505. 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 town:

(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. (2007 Code, § 1-505)

1-506. 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. (2007 Code, § 1-506)

1-507. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the town board of mayor and aldermen to be in the best interests of the town. (2007 Code, § 1-507)

1-508. 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 town.

(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 town. (2007 Code, § 1-508)

1-509. Outside employment. A full-time employee of the town may not accept any outside employment without written authorization from the mayor. (2007 Code, § 1-509)

1-510. Ethics complaints. (1) The town attorney is designated as the ethics officer of the town. Upon the written request of an official or employee potentially affected by a provision of this chapter, the town 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 town 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 town attorney may request the town board of mayor and aldermen 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 town board of mayor and aldermen, the town board of mayor and aldermen shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the town board of mayor and aldermen determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the town board of mayor and aldermen.

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

(4) When a violation of this 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. (2007 Code, § 1-510)

1-511. 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 town's charter or other applicable law, and in addition is subject to censure by the town board of mayor and aldermen. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (2007 Code, § 1-511)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. JOINT RECREATION COMMISSION.

CHAPTER 1

JOINT RECREATION COMMISSION

SECTION

2-101. Inter-local agreement.

2-101. Inter-local agreement. Pursuant to the Inter-Local Cooperation Act, codified at *Tennessee Code Annotated*, § 12-9-101 *et. seq.*, the mayor, upon the advice and consent of the board of mayor and aldermen, is hereby authorized to enter into inter-local agreements with neighboring municipalities for providing joint recreation programs, acquiring equipment and facilities in the use of such programs, staffing such programs, and doing all things incidental and necessary thereto for the purpose of conducting a recreation program (Ord. #91-2012, May 2012)

TITLE 3**MUNICIPAL COURT****CHAPTER**

1. TOWN JUDGE.
2. COURT ADMINISTRATION.
3. SUMMONSES AND SUBPOENAS.
4. BONDS AND APPEALS.

CHAPTER 1**TOWN JUDGE****SECTION**

- 3-101. Town judge.
3-102. Jurisdiction.

3-101. Town judge. (1) Appointment. The town judge designated by the charter to handle judicial matters within the town shall be appointed by the board of mayor and aldermen and shall serve at the pleasure of the governing body. Vacancies in the office of the town judge arising from resignation, disqualification or for any other reason whatsoever, shall be filled in the same manner as prescribed for the appointment of the town judge.

(2) Qualifications. The town judge shall be a minimum of thirty (30) years of age, be licensed by the State of Tennessee to practice law, and be a resident of Hawkins County, Tennessee. If the town judge for any reason removes his domicile from Hawkins County after his appointment, the removal of his domicile shall automatically create a vacancy in the office of the town judge.

(3) Judge pro tem. During the absence of the town judge from his duties for any reason or at any time the office of the town judge is vacant, the board of mayor and aldermen may appoint a town judge pro tem to serve until the town judge returns to his duties or the office of town judge is no longer vacant. The town judge pro tem shall have all the qualifications required, and powers, of the town judge.

3-102. Jurisdiction. The town judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty under the general penalty provision of this code. The town judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include

for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant. (2007 Code, § 3-102)

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket.

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

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

3-204. Contempt of court.

3-201. Maintenance of docket. The town judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant.

3-202. Imposition of fines, penalties, and court costs. (1) All fines and costs shall be imposed by the town judge and recorded by the municipal court clerk on the municipal court docket.

(2) Court costs. In all cases heard and determined by him or her, the town judge shall impose court costs in the amount of one hundred dollars (\$100.00). One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer in accordance with *Tennessee Code Annotated*, § 16-18-304(a), to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks.

(3) When any person has been charged with violation of a law regarding vehicle equipment (including but not limited to inoperable headlights, tail lights, brake lights or turn signals), driver licensing, or vehicle licensing and registration, the charge may be dismissed if the person charged with the violation submits evidence of compliance with such law on or before the court date; provided, however, that the town judge may establish a separate court cost not to exceed thirty dollars (\$30.00) to be collected from the person charged with the violation. This separate court cost will be assessed in lieu of the court costs detailed in § 3-202(2) above.

One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer in accordance with *Tennessee Code Annotated*, § 16-18-304(a), to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks.

(4) Litigation taxes. In all cases where the defendant is charged with the violation of a town ordinance or authorized state statute and is found guilty, whether by trial or plea of guilty, such defendant shall pay:

(a) The state litigation taxes as defined in *Tennessee Code Annotated*, § 67-4-601.

(b) In addition, pursuant to the authority granted in *Tennessee Code Annotated*, § 67-4-601, the Town of Surgoinsville adopts a local litigation tax of thirteen dollars and seventy five cents (\$13.75) and the court shall levy this local litigation tax in all cases in which the state litigation tax is levied.

(c) Any other taxes and/or fees imposed pursuant to state statutes and/or town ordinances.

(5) Electronic citation regulations and fees. (a) As used in this section, "electronic citation" means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense.

(b) Pursuant to and in accordance with state statutory requirements found in *Tennessee Code Annotated*, § 55-10-207(e), each court clerk shall charge and collect an electronic citation fee of five dollars (\$5.00) for each citation which results in a conviction.

(c) Sunset provision. This ordinance and its fee requirement shall terminate five (5) years from the date of adoption of this code.

3-203. Disposition and report of penalties and costs. All funds coming into the hands of the town judge in the form of penalties, costs, and forfeitures shall be recorded by him or her and paid over daily to the town. At the end of each month he or she shall submit to the board of mayor and aldermen a report accounting for the collection or noncollection of all penalties and costs imposed by his or her court during the current month and to date for the current fiscal year.

3-204. Contempt of court. Contempt of court is punishable by a fine of fifty dollars (\$50.00), or such lesser amount as may be imposed in the judge's discretion.

CHAPTER 3

SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of summonses.

3-302. Issuance of subpoenas.

3-301. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the town judge, the judge may, in his discretion, issue a summons ordering the alleged offender personally to appear before the town court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the town court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal.

3-302. Issuance of subpoenas. The town 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.

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appeals.

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

3-401. Appeals. Any person dissatisfied with any judgment of the town court against him may, within ten (10) days¹ thereafter, Sundays exclusive, appeal to the circuit court of the county upon giving bond.

"Person" as used in this section includes, but is not limited to, a natural person, corporation, business entity or the municipality.

3-402. Bond amounts, conditions, and forms. (1) Appeal bond. An appeal bond in any case shall be two hundred fifty dollars (\$250.00) for such person's appearance and the faithful prosecution of the appeal.

(2) Pauper's oath. A bond is not required provided the defendant/appellant

(a) Files the following oath of poverty:

I, _____, do solemnly swear under penalties of perjury, that owing to my poverty, I am not able to bear the expense of the action which I am about to commence, and that I am justly entitled to the relief sought, to the best of my belief;

(b) Files an accompanying affidavit of indigency.

The affidavit of indigency must be sworn to by the defendant/appellant and the facts therein may be investigated.

"Person" as used in this section includes, but is not limited to, a natural person, corporation, business entity or the municipality.

¹State law reference

Tennessee Code Annotated, § 16-18-307.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL REGULATIONS.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
3. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1

PERSONNEL REGULATIONS

SECTION

- 4-101. Purpose.
- 4-102. Personnel rules and regulations.
- 4-103. Records.
- 4-104. Right to contract special services.
- 4-105. Discrimination.
- 4-106. Amendments.

4-101. Purpose. The purpose of this chapter is to establish a system of personnel administration in the Town of Surgoinsville that is based on merit and fitness. The system shall provide means to select, develop, and maintain an effective municipal work force through the impartial application of personnel policies and procedures free of personal and political considerations and regardless of race, sex, age, creed, national origin or handicapping condition. (2007 Code, § 4-201)

4-102. Personnel rules and regulations. The board of mayor and aldermen shall adopt by resolution a set of personnel rules and regulations. (2007 Code, § 4-202)

4-103. Records. The mayor, or his designee, shall maintain adequate records of the employment record of every employee as specified herein. (2007 Code, § 4-203)

4-104. Right to contract special services. The board of mayor and aldermen may direct the mayor to contract with any competent agency for the performance of such technical services in connection with the establishment of the personnel system or with its operation as may be deemed necessary. (2007 Code, § 4-204)

4-105. Discrimination. No person in the classified service, or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of political opinions or affiliations, or because of race, color, creed, national origin, sex, ancestry, age, or religious belief. (2007 Code, § 4-205)

4-106. Amendments. Amendments or revisions to the personnel rules and regulations may be recommended for adoption by the town administrator, the mayor, or any member of the board of mayor and aldermen. Such amendments or revisions shall become effective after passage of an appropriate resolution. (2007 Code, § 4-206)

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-201. Adopted by reference.

4-201. Adopted by reference. The Town of Surgoinsville herein adopts *Tennessee Code Annotated*, title 50, chapter 3, the Occupational Safety and Health Act of 1972, as if set out verbatim herein.

CHAPTER 3

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-301. Purpose.
- 4-302. Enforcement.
- 4-303. Travel policy.
- 4-304. Travel reimbursement rate schedules.
- 4-305. Administrative procedures.

4-301. Purpose. The purpose of this chapter and referenced regulations is to bring the town into compliance with *Tennessee Code Annotated*, § 6-54-901--907. This law requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this ordinance is expanded to cover regular city employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on town business at town expense.

4-302. Enforcement. The Chief Administrative Officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations.

4-303. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on town business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the town.

Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

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

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

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

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

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

(a) Directly related to the conduct of the town business for which travel was authorized; and

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

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive will not be allowed.

(7) Claims of five dollars (\$5.00) or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee and other reimbursable costs.

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

(9) Mileage and motel expenses incurred within the town are not ordinarily considered eligible expenses for reimbursement.

4-304. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The town's travel reimbursement rates will automatically change when the state rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging and registration fees for conferences, conventions, seminars and other education programs.

4-305. Administrative procedures. The town adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State

of Tennessee. A copy of the administrative procedures is on file in the office of the recorder.¹

¹State law reference

Tennessee Code Annotated, § 6-54-904, requires a municipality to notify the comptroller in writing that it has adopted the MTAS policy, including the date of such adoption.

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

1. MISCELLANEOUS.
2. PRIVILEGE TAXES.
3. WHOLESALE BEER TAX.
4. PURCHASING POLICY.
5. DEBT POLICY.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depository for town funds.
5-102. Investment policy.

5-101. Official depository for town funds. First Community Bank Rogersville-Church Hill, and its successors and assigns are hereby designated as the official depositories for funds of the Town of Surgoinsville. (2007 Code, § 5-101, modified)

5-102. Investment policy. (1) Purpose. The purpose of this policy is to provide guidelines for investing idle funds of the Town of Surgoinsville, Tennessee. These guidelines are intended to safeguard the town's investments and formalize the current investment practice.

(2) Allowable investments. The town may invest idle funds in local financial institutions described in Section 5-101 of the town's municipal code. This includes First Community Bank Rogersville-Church Hill and its successors. Funds may also be deposited into the Tennessee Local Government Investment Pool. The town may also invest funds in other instruments set forth in *Tennessee Code Annotated*, § 6-56-106 "Authorized Investments." The town generally maintains investments in the form of certificates of deposit at local financial institutions or at the State of Tennessee's Local Government Investment Pool.

(3) Authority to invest funds. As stated in Section 1-402 of the municipal code, the city's clerk, assistant clerk, or mayor have the authority to invest idle funds in allowable investments. Town personnel must maintain appropriate detailed records of all investments and recalculate interest received to ensure the town's income from these investments is accurate.

(4) Appropriate collateral. Deposits in excess of the limits of insurance on such accounts must be collateralized for one hundred five percent (105%) of the excess amount (*Tennessee Code Annotated*, § 9-1-107 and *Tennessee Code*

Annotated, § 9-4-103). If the financial institution does not participate in the Bank Collateral Pool, the financial institution must provide a monthly statement of securities pledged to collateralize the balance.

(5) Procedures for investing funds. The following are procedures followed by the Town of Surgoinsville, Tennessee:

(a) If the town has new funds to invest, all local financial institutions are called for quotes. The financial institution with the highest quote is the one in which the funds are invested. If more than one (1) financial institution quotes the same rates for the same period of time, those financial institutions shall be called back for a second quote.

(b) If the town is renewing a certificate of deposit, all local financial institutions shall be called for quotes. In order to move a certificate of deposit from the current financial institution, a competitor must give a rate more than fifteen (15) basis points above the current financial institution's quote for the same period of time.

(c) No quotes shall be provided to any financial (bidder) until all quotes are received. No bidder is allowed to change his quote after he has been notified of the winning bid.

(d) The length of time for a certificate of deposit is determined based on the rates, cash requirements, and market trend. The town generally does not invest funds for terms greater than two (2) years.

(6) Sources. The Town of Surgoinsville, Tennessee will abide by all sections of the *Tennessee Code Annotated* in regards to investing funds. The town will also look to other guidance such as the "Internal Control and Compliance Manual for Tennessee Municipalities." (Ord. #70-2008, Feb. 2008)

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 town at the rates and in the manner prescribed by the act.

5-202. License required. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax.

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 town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in *Tennessee Code Annotated*, title 57, chapter 6.¹ (2007 Code, § 5-301, modified)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax in accordance with § 57-6-103. 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 references

Alcohol and beer regulations: title 8.

Beer privilege tax: § 8-208.

CHAPTER 4

PURCHASING POLICY

SECTION

5-401. Application.

5-402. Limits on purchases.

5-403. Advertising and bidding -- exceptions.

5-504. Advertising and bidding -- expenditures of less than \$10,000.00.

5-505. Additional authority of board.

5-401. Application. This chapter shall apply to all purchases¹ by authorized officials using or encumbering municipal funds, except as follows:

(1) This chapter shall not apply to purchases made pursuant to any specific authority contained in the town's mayor -aldermanic charter, found at *Tennessee Code Annotated*, §§ 6-1-101, *et seq.*;

(2) This chapter shall not apply to purchases by the Tennessee Department of General Services under the provisions of *Tennessee Code Annotated*, § 12-3-1001 made at the town's request;

(3) This chapter shall not apply to investments in or purchases from the local government investment pool established pursuant to *Tennessee Code Annotated*, § 9-4-701 *et seq.*;

(4) This chapter shall not apply to purchases from instrumentalities created by two (2) or more cooperating governments such as, but not limited to, those established pursuant to the Inter-local Cooperation Act, found at *Tennessee Code Annotated*, §§ 12-9-101 *et seq.*; and

(5) This chapter shall not apply to purchases from nonprofit corporations such as, but not limited to, the Local Government Data Processing Corporation, whose purpose or one (1) of whose purposes is to provide goods or services specifically to municipalities. (Ord. #66-2007, Oct. 2007)

5-402. Limits on purchases. All purchases made from funds subject to the authority of this chapter shall be made within the limits of the approved budget, when required, and the appropriations, when required, for the department, office or agency for which the purchase is made. (Ord. #66-2007, Oct. 2007)

5-403. Advertising and bidding -- exceptions. Except as hereinafter provided, all purchases and leases or lease-purchase agreements shall be made

¹For state law reference see, the Municipal Purchasing Law, *Tennessee Code Annotated*, § 6-56-301 *et seq.*

or entered into only after public advertisement and competitive bid, except as follows:

(1) Purchases costing less than ten thousand dollars (\$10,000.00); provided, that this exemption shall not apply to purchases of like items which individually cost less than ten thousand dollars (\$10,000.00), but which are customarily purchased in lots of two (2) or more, if the total purchase price of such items would exceed ten thousand dollars (\$10,000.00) during any fiscal year;

(2) Any goods or services which may not be procured by competitive means because of the existence of a single source of supply or because of a proprietary product. A record of all such sole source or proprietary purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such sole source or proprietary purchases shall be made as soon as possible to the mayor and the board of mayor and alderman and shall include all items of information as required for the record;

(3) Purchases or leases of any supplies, materials or equipment for immediate delivery in actual emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work. A record of any such emergency purchase shall be made by the person or body authorizing such emergency purchases, and shall specify the amount paid, the items purchased, from whom the purchase was made and the nature of the emergency. A report of any emergency purchase shall be made as soon as possible to the board of mayor and aldermen and the mayor, and shall include all items of information as required in the record;

(4) Leases or lease-purchase agreements requiring total payments of less than ten thousand dollars (\$10,000.00) in each fiscal year the agreement is in effect; provided, that this exemption shall not apply to leases of like or related items which individually may be leased or lease-purchased with total payments of less than ten thousand dollars (\$10,000.00) in any fiscal year, but which are customarily leased or lease-purchased in numbers of two (2) or more, if the total lease or lease-purchase payments for such items under a single agreement would be ten thousand dollars (\$10,000.00) or more in any fiscal year;

(5) Purchases, leases, or lease-purchases of real property;

(6) Purchases, leases, or lease-purchases from any federal, state, or local governmental unit or agency of secondhand articles or equipment or other materials, supplies, commodities, and equipment;

(7) Purchases of perishable commodities from the requirements of public advertisement and competitive bidding, when such items are purchased in the open market. A record of all such purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such purchases shall be made, at least monthly, to the mayor and the board of mayor and alderman, and shall include all items of information as required in the record.

Fuel and fuel products may be purchased in the open market without public advertisement, but shall whenever possible be based on at least three (3) competitive bids. Fuel and fuel products may be purchased from the department of general services' contract where available; and,

(8) Purchases, for resale, of natural gas and propane gas.
(Ord. #66-2007, Oct. 2007)

5-404. Advertising and bidding -- expenditures of less than \$10,000.00. All purchases, leases, or lease-purchase arrangements with expenditures of less than ten thousand dollars (\$10,000.00) but more than four thousand dollars (\$4,000.00) in any fiscal year may be made in the open market without public advertisement, but shall, whenever possible, be based upon at least three (3) competitive price quotations. Purchases, leases, or lease-purchases of four thousand dollars (\$4,000.00) or less in any fiscal year shall not require any public advertisement or competitive bidding.
(Ord. #66-2007, Oct. 2007)

5-405. Additional authority of board. The board of mayor and alderman may:

(1) By resolution, lower the dollar amounts required in this chapter for public advertisement and competitive bidding to an amount to be set by the board.

(2) By resolution, adopt regulations providing procedures for implementing the provisions of this chapter. (Ord. #66-2007, Oct. 2007)

CHAPTER 5

DEBT POLICY

SECTION

- 5-501. Purpose.
- 5-502. Definition of debt.
- 5-503. Approval of debt.
- 5-504. Transparency.
- 5-505. Role of debt.
- 5-506. Types and limits of debt.
- 5-507. Use of variable rate debt.
- 5-508. Use of derivatives.
- 5-509. Costs of debt.
- 5-510. Refinancing outstanding debt.
- 5-511. Professional services.
- 5-512. Conflicts.
- 5-513. Review of policy.
- 5-514. Compliance.

5-501. Purpose. The purpose of this debt policy is to establish a set of parameters by which debt obligations will be undertaken by the Town of Surgoinsville, Tennessee. This policy reinforces the commitment of the town and its officials to manage the financial affairs of the town so as to minimize risks, avoid conflicts of interest and ensure transparency while still meeting the capital needs of the town. A debt management policy signals to the public and the rating agencies that the town is using a disciplined and defined approach to financing capital needs and fulfills the requirements of the State of Tennessee regarding the adoption of a debt management policy.

The goal of this policy is to assist decision makers in planning, issuing and managing debt obligations by providing clear direction as to the steps, substance and outcomes desired. In addition, greater stability over the long-term will be generated by the use of consistent guidelines in issuing debt. (Ord. #88-2011, Dec. 2011)

5-502. Definition of debt. All obligations of the town to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of town resources. This includes but is not limited to notes, bond issues, capital leases, and loans of any type (whether from an outside source such as a bank or from another internal fund). (Ord. #88-2011, Dec. 2011)

5-503. Approval of debt. Bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be

submitted to the State of Tennessee Comptroller's Office and the town council prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the comptroller's office prior to issuance. Capital or equipment leases may be entered into by the town council; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within 45 days. (Ord. #88-2011, Dec. 2011)

5-504. Transparency (1) The town shall comply with legal requirements for notice and for public meetings related to debt issuance.

(2) All notices shall be posted in the customary and required posting locations, including as required local newspapers, bulletin boards, and websites.

(3) All costs (including principal, interest, issuance, continuing, and one-time) shall be clearly presented and disclosed to the citizens, town council, and other stakeholders in a timely manner.

(4) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens/members, town council, and other stakeholders in a timely manner.

(5) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens/members, town council, and other stakeholders in a timely manner. (Ord. #88-2011, Dec. 2011)

5-505. Role of debt (1) Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master process or plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the town will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management.

(2) In accordance with generally accepted accounting principles and state law,

(a) The maturity of the underlying debt will not be more than the useful life of the assets purchased or built with the debt, not to exceed thirty (30) years; however, an exception may be made with respect to federally sponsored loans, provided such an exception is consistent with law and accepted practices.

(b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (Ord. #88-2011, Dec. 2011)

5-506. Types and limits of debt (1) The town will seek to limit total outstanding debt obligations to ten percent (10%) of the total town's taxable assessed valuation, excluding overlapping debt, enterprise debt, and revenue debt.

(2) The limitation on total outstanding debt must be reviewed prior to the issuance of any new debt.

(3) The town's total outstanding debt obligation will be monitored and reported to the town council by the city recorder and on a schedule established in the policy. The city recorder shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The city recorder shall also report to the town council any matter that adversely affects the credit or financial integrity of the town.

(4) The town has issued capital outlay notes, sewer revenue bonds and tax anticipation notes in the past and is authorized to issue general obligation bonds, revenue bonds, TIFs, loans, notes and other debt allowed by law.

(5) The town will seek to structure debt with level or declining debt service payments over the life of each individual bond issue or loan.

(6) As a rule, the town will not backload, use "wrap-around" techniques, balloon payments or other exotic formats to pursue the financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other external factors occur, the town may utilize non-level debt methods. However, the use of such methods must be thoroughly discussed in a public meeting and the mayor and governing body must determine such use is justified and in the best interest of the town.

(7) The town may use capital leases to finance short-term projects.

(8) Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The town may use its general obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the town. The town council and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the town's general fund. (Ord. #88-2011, Dec. 2011)

5-507. Use of variable debt. (1) The town recognizes the value of variable rate debt obligations and that cities have greatly benefitted from the use of variable rate debt in the financing of needed infrastructure and capital improvements.

(2) However, the town also recognizes there are inherent risks associated with the use of variable rate debt and will implement steps to mitigate these risks; including:

(a) The town will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration.

(b) Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the town council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the insurance fail.

(c) Prior to entering into any variable rate debt obligation that is backed by a letter of credit provider, the town council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the letter of credit fail.

(d) Prior to entering into any variable rate debt obligation, the town council will be informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations.

(e) The town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation. (Ord. #88-2011, Dec. 2011)

5-508. Use of derivatives. (1) The town chooses not to use derivative or other exotic financial structures in the management of the town's debt portfolio.

(2) Prior to any reversal of this provision:

(a) A written management report outlining the potential benefits and consequences of utilizing these structures must be submitted to the town council; and

(b) The town council must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the state funding board guidelines. (Ord. #88-2011, Dec. 2011)

5-509. Costs of debt. (1) All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the town council in accordance with the notice requirements stated above.

(2) In cases of variable interest or non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.

(3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded (i.e. general obligations bonds in context of the general fund, revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes). (Ord. #88-2011, Dec. 2011)

5-510. Refinancing outstanding debt. (1) The town will refund debt when it is in the best financial interest of the town to do so, and the chief financial officer shall have the responsibility to analyze outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly approved by the governing body, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations.

(2) The chief financial officer will consider the following issues when analyzing possible refunding opportunities:

(a) Onerous restrictions. Debt may be refinanced to eliminate onerous or restrictive covenants contained in existing debt documents, or to take advantage of changing financial conditions or interest rates.

(b) Restructuring for economic purposes. The town will refund debt when it is in the best financial interest of the town to do so. Such refunding may include restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, or to release reserve funds. Current refunding opportunities may be considered by the chief financial officer if the refunding generates positive present value savings, and the chief financial officer must establish a minimum present value savings threshold for any refinancing.

(c) Term of refunding issues. The town will refund bonds within the term of the originally issued debt. However, the chief financial officer may consider maturity extension, when necessary to achieve a desired outcome, provided such extension is legally permissible. The chief financial officer may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful life of the financed facility and the concept of inter-generational equity should guide this decision.

(d) Escrow structuring. The town shall utilize the least costly securities available in structuring refunding escrows. Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the town from its own account.

(e) Arbitrage. The town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. (Ord. #88-2011, Dec. 2011)

5-511. Professional services. The town shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the town and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.

(1) Counsel.¹ The town shall enter into an engagement letter agreement with each lawyer or law firm representing the town in a debt transaction. (No engagement letter is required for any lawyer who is an employee of the town or lawyer or law firm which is under a general appointment or contract to serve as counsel to the town. The town does not need an engagement letter with counsel not representing the town, such as underwriters' counsel.)

(2) Financial advisor.² If the town chooses to hire financial advisors, the town shall enter into a written agreement with each person or firm serving as financial advisor or debt management and transactions. Whether in a competitive or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which they are or have been providing advisory services for the issuance.

(3) Underwriter. If there is an underwriter the town shall require the underwriter to clearly identify itself in writing (e.g., in a response to a request for proposals or in promotional materials proved to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the town with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the town. The underwriter, in a publicly offered, negotiated sale, shall be required to provide pricing information both as to interest rates and to takedown per maturity to the governing body (or its designated official) in advance of the pricing of the debt. (Ord. #88-2011, Dec. 2011)

¹The requirement for an engagement letter does not apply to any lawyer who is an employee of the town or any lawyer or law firm under a general appointment as counsel to the town and not serving as bond counsel for the transaction.

If bond counsel for a debt transaction does not represent the town in that transaction, the town will enter into a fee payment letter agreement with such lawyer or law firm specifying:

- (1) The party represented in the debt transaction; and
- (2) The town's obligation with respect to the payment of such lawyer or law firm's fee and expenses.

²For new issues of debt which constitutes a "security" for which the time of formal award (as defined in rule G-34(a) (ii) (C) (1) occurs after November 27, 2011, the Municipal Securities Rulemaking Board has prohibited broker, dealer or municipal securities dealer serving as a financial advisor to an issuer for a particular issue from switching roles and underwriting the same issue. Policies must be adjusted to comply with amended Rule G-23 as it applies to securities, including exceptions to the prohibition.

5-512. Conflicts. (1) Professionals involved in a debt transaction hired or compensated by the town shall be required to disclose to the town existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the town to appreciate the significance of the relationships.

(2) Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct. (Ord. #88-2011, Dec. 2011)

5-513. Review of policy. This policy shall be reviewed at least annually by the town council with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoption of this policy, with opportunity for public input. (Ord. #88-2011, Dec. 2011)

5-514. Compliance. The city recorder is responsible for ensuring compliance with this policy. (Ord. #88-2011, Dec. 2011)

TITLE 6**LAW ENFORCEMENT¹****CHAPTER**

1. POLICE DEPARTMENT.
2. ARREST PROCEDURES.
3. CITATIONS, WARRANTS, AND SUMMONSES.

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.

6-101. 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.

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

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

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

¹Municipal code references

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

"Mutual Aid and Emergency and Disaster Assistance Agreement Act of 2004:" title 7, chapter 3, footnote 1.

(4) Any other records required to be kept by the board of mayor and aldermen or by law.

The police chief shall be responsible for ensuring that the police department complies with the section.

CHAPTER 2

ARREST PROCEDURES

SECTION

6-201. When police officers to make arrests.

6-202. Disposition of persons arrested.

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 police officer in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the officer has probable cause to believe the person has committed it.

6-202. Disposition of persons arrested. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court of competent jurisdiction.

¹Municipal code reference

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

CHAPTER 3

CITATIONS, WARRANTS, AND SUMMONSES

SECTION

6-301. Citations in lieu of arrest in non-traffic cases.

6-302. Summonses in lieu of arrest.

6-301. Citations in lieu of arrest in non-traffic cases.¹ Pursuant to *Tennessee Code Annotated*, § 7-63-101, *et seq.*, the board of mayor and aldermen appoints the fire chief in the fire department a special police officer having the authority to issue citations in lieu of arrest. The fire chief in the fire department shall have the authority to issue citations in lieu of arrest for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances.

The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special officer in whose presence the offense was committed shall immediately arrest the offender and dispose of him in accordance with *Tennessee Code Annotated*, § 7-63-104.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued.

6-302. Summonses in lieu of arrest. Pursuant to *Tennessee Code Annotated*, § 7-63-201, *et seq.*, which authorizes the board of mayor and aldermen to designate certain town enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the police chief in the police department to issue ordinance summonses in those areas. These enforcement officers may *not* arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the

¹Municipal code reference

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

person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him.

The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may:

- (1) Have a summons issued by the clerk of the town court; or
- (2) May seek the assistance of a police officer to witness the violation.

The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided in § 6-301 above.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued.

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. VOLUNTEER FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE TOWN LIMITS.
5. OPEN BURNING.
6. FALSE FIRE ALARMS.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire district described.

7-101. Fire district described. The corporate fire district shall be and shall include those areas zoned and designated as business and industrial districts. (2007 Code, § 7-101)

¹Municipal code reference
Building, utility, etc. codes: title 12.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Available in recorder's office.
- 7-208. Violations and penalties.

7-201. Fire code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the International Fire Code,² 2018 edition, and NFPA 101 Life Safety Code,³ 2021 edition, and all subsequent amendments or additions to 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 fire code. Said fire code is shall be controlling within the corporate limits.

7-202. Enforcement. The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (2007 Code, § 7-202, modified)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the Town of Surgoinsville, Tennessee. (2007 Code, § 7-203, modified)

¹Municipal code reference

Building, utility and housing codes: title 12.

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

³Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

7-204. Storage of explosives, flammable liquids, etc. (1) The district referred to in section 1901.4.2 of the fire code, in which storage of explosives and blasting agents is prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

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

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

(4) The district referred to in section 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the fire district as set out in § 7-101 of this code. (2007 Code, § 7-204, modified)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (2007 Code, § 7-205)

7-206. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire 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 aldermen. (2007 Code, § 7-206, modified)

7-207. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the fire code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

7-208. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the fire 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

VOLUNTEER FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training and maintenance.
- 7-307. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations of the board of mayor and aldermen. Any funds raised by the volunteer fire department as a whole, or by any individual or group of volunteer firemen in the name of the volunteer fire department, and any gifts to the volunteer fire department shall be turned over to and become the property of, the town and the town shall use such funds in the equipping of the volunteer fire department. All other apparatus, equipment, and supplies of the volunteer fire department shall be purchased by or through the town and shall be and remain the property of the town. The volunteer fire department shall be composed of a chief appointed by the board of mayor and aldermen, and such number of subordinate officers and firemen as the fire chief shall appoint. Subject to approval by the board of mayor and aldermen.

7-302. Objectives. The volunteer fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.
- (7) To provide code enforcement and building inspections as directed by the town within adopted codes and ordinances.
- (8) To serve as the emergency management agency of the town.

¹Municipal code reference

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

(9) To protect the health and safety of the citizens from the transportation, storage, and/or manufacture of hazardous materials to the extent possible that the level of equipment and training will allow.

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

(11) To provide public fire and safety education materials and information to the citizens in order that they may protect themselves from harm, and to reduce the risk of fire in the community.

7-303. Organization, rules, and regulations. The chief of the volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department under such rules and regulations as the board of mayor and aldermen may prescribe.

7-304. Records and reports. The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on those matters to the mayor or to the board of mayor and aldermen as they may require.

7-305. Tenure and compensation of members. The fire chief shall have the authority to suspend or discharge any other member of the volunteer fire department when he deems such action to be necessary for the good of the department. The fire chief may be suspended for up to thirty (30) days by the mayor, but may be dismissed only by the board of mayor and aldermen.

All personnel of the volunteer fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe.

7-306. Chief responsible for training and maintenance. The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the board of mayor and aldermen.

7-307. Chief to be assistant to state officer. Pursuant to requirements of *Tennessee Code Annotated*, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by *Tennessee Code Annotated*, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof.

CHAPTER 4

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

7-401. Restrictions on fire service outside town limits.

7-401. Restrictions on fire service outside town limits. The board shall have full power and authority to authorize the use of the town's fire-fighting equipment and personnel outside the corporate limits to suppress and extinguish fires subject to such conditions and limitations of such action as the board may impose pursuant to the authority of:

(1) *Tennessee Code Annotated*, § 58-8-101, *et seq.*, the Mutual Aid and Emergency Disaster Assistance Agreement Act of 2004, which authorizes municipalities to respond to requests from other governmental entities affected by situations in which its resources are inadequate to handle. The act provides procedures and requirements for providing assistance. No separate mutual aid agreement is required unless assistance is provided to entities in other states, but a municipality may, by resolution, continue existing agreements or establish separate agreements to provide assistance. Assistance to entities in other states is still provided pursuant to *Tennessee Code Annotated*, § 12-9-101, *et seq.* "Assistance" is defined in the act as "the provision of personnel, equipment, facilities, services, supplies, and other resources to assist in firefighting, law enforcement, the provision of public works services, the provision of emergency medical care, the provision of civil defense services, or any other emergency assistance one governmental entity is able to provide to another in response to a request for assistance in a municipal, county, state, or federal state of emergency."

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

(3) *Tennessee Code Annotated*, § 6-54-601, which authorizes municipalities to:

(a) Enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with fire fighting assistance.

(b) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance.

(c) Provide fire protection outside their town limits to either citizens on an individual contractual basis, or to citizens in an area without individual contracts, whenever an agreement has first been

entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.) (2007 Code, § 7-401)

CHAPTER 5

OPEN BURNING

SECTION

- 7-501. Specific materials that may not be burned.
- 7-502. Burning prohibited.
- 7-503. Exemptions to prohibited burning.
- 7-504. Permit required for certain burning practices.
- 7-505. Violations and penalty.
- 7-506. Enforcement.

7-501. Specific materials that may not be burned. It is illegal to open burn any trash, wood scraps, brush, limbs, leaves and other debris upon property within the town. (2007 Code, § 7-501)

7-502. Open burning. Between October 15 to May 15, debris burn permits are required for anyone starting an open-air fire within five hundred feet (500') of a forest, grassland, or woodland. The open burning, as referred to in this section, shall conform to regulations set forth by the Tennessee Division of Forestry and the Tennessee Department of Environment and Conservation Division of Air Pollution Control. (Ord. #174-2024, July 2024)

7-503. Exemptions to prohibited burning. Open burning, as described in this section, may be conducted provided that no public nuisance is or will be created by such burning. Permits are not required for burning in containers such as a metal barrel with a one-half inch (1.2") mesh screen cover, fires used for cooking food, fires for ceremonial purposes or recreational purposes or comfort heating fires, including barbecues and outdoor fireplaces, and fires set for the training and instruction of firefighters.

This grant of exemption shall in no way relieve the person from the consequences, damages, or claims resulting from such burning. This exception does not relieve the person of the responsibility of using fire safe practices nor from getting a permit from any other agency that may require such. (Ord. #174-2024, July 2024)

7-504. Permit required for certain burning practices. Large controlled open burning is permissible only with the approval of the Surgoinsville Volunteer Fire Chief or his designee and obtaining a permit from the Town of Surgoinsville. (2007 Code, § 7-504)

7-505. Violations and penalty. Violations of this chapter shall be subject to a fine of fifty dollars (\$50.00) per day of violation. (2007 Code, § 7-505)

7-506. Enforcement. The fire chief or his designee is hereby authorized and directed to enforce the provisions of this chapter. (2007 Code, § 7-506)

CHAPTER 6

FALSE FIRE ALARMS

SECTION

7-601. Definitions.

7-602. Notices and penalties.

7-601. Definitions. (1) False emergency alarm. Any signal actuated by an emergency alarm to which the fire department responds which is not the result of fire or other actual emergency, and not caused by an extraordinary act of nature.

(2) Owner and/or operator. A person or persons who resides, owns, or operates a residence or business in which an emergency alarm is connected. (Ord. #178-2024, Aug. 2024)

7-602. Notices and penalties. The following schedule of notices, warnings, penalties, and costs shall be assessed to the owners and/or operators of emergency alarm systems for false emergency alarms transmitted to the fire department within any continuous twelve (12) month period, beginning with the first false emergency alarm.

(1) First false emergency alarm. Written notification by the fire chief informing the owner or operator of the alarm system of the provisions of this ordinance.

(2) Second false emergency alarm. Written warning informing the owner or operator of the alarm system of the provisions of this ordinance and of the occurrence of a second violation.

(3) Third false emergency alarm. A fine of up to fifty dollars (\$50.00) shall be imposed.

(4) Fourth and subsequent false emergency alarms. For each violation a fine of fifty dollars (\$50.00) shall be imposed, and the actual costs of such response by the fire department including the costs of equipment, fuel, personnel, administration, and other such factors as determined by the fire chief, may also be imposed. (Ord. #178-2024, Aug. 2024)

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

1. INTOXICATING LIQUORS.
2. BEER.

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

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within this town. "Intoxicating liquor" 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.

¹Municipal code references

Minors in beer places, public drunkenness, etc.: title 11 chapter 2.
State law reference
Tennessee Code Annotated, title 57.

²State law reference

Tennessee Code Annotated, § 39-17-701, *et seq.*

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Permits for the retail sale of beer.
- 8-210. Interference with public health, safety, and morals prohibited.
- 8-211. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders.
- 8-213. Revocation or suspension of beer permits.
- 8-214. Civil penalty in lieu of revocation or suspension.
- 8-215. Loss of clerk's certification for sale to minor.
- 8-216. Violations and penalty.

8-201. Beer board established. (1) There is hereby established a beer board to be composed of three (3) members appointed by the board of mayor and aldermen.

(2) The members of the beer board may be members of the board of mayor and aldermen or public members who shall be residents of Hawkins County. They shall be appointed for three (3) year terms except that the first members shall be appointed for staggered terms so that the term of one (1) member shall expire each year thereafter. A chairman shall be elected annually by the board from among its members. Members of the beer board shall serve without compensation.

(3) The beer board is hereby vested with all authority to issue, deny and revoke permits for the sale of beer, as provided by the laws of Tennessee and the Surgoinsville Municipal Code, title 8, chapter 2 relating to beer.

¹Municipal code references

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).

(4) That the violation of any provision of this ordinance shall be punishable by a penalty of not more than fifty dollars (\$50.00). Each day of violation may constitute a separate offense. (Ord. #169-2023, Dec. 2023)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the town hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (2007 Code, § 8-202)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; 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. (2007 Code, § 8-203)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (2007 Code, § 8-204, modified)

8-205. Powers and duties of the beer board.¹ The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this town in accordance with the provisions of this chapter. (2007 Code, § 8-205, modified)

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101.

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-104(a), and

¹State law reference

Tennessee Code Annotated, § 57-5-106.

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 Town of Surgoinsville. 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. The permit holder must have a direct financial connection to the business, either owner, partner, or manager. (2007 Code, § 8-207)

8-208. Privilege tax.¹ 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 each successive January 1 to the Town of Surgoinsville, 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.

8-209. Permits for the retail sale of beer. Permits for the retail sale of beer shall be restricted to the sale of beer to be consumed off the premises. The issuance of a beer permit in no way authorizes the sale of liquor. (2007 Code, § 8-209, modified)

8-210. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with hospitals, schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. (2007 Code, § 8-210)

8-211. 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. (2007 Code, § 8-211)

8-212. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

(1) In no event will a permit be issued for a location within three hundred feet (300') of any school, church, or other place of public gathering. For purposes of this section, all distances shall be measured in a straight line from the closest point of the applicant's building to the closest point of the

¹State law reference

Tennessee Code Annotated, § 57-5-104(b).

building of the nearest school, church, or other place of public gathering (building-to-building); or from the closest point of applicant's building to the closest point of the property boundary of a public park (building-to-property boundary). The distance limitations contained in this subsection shall have no effect on a permit issued prior to the adoption of this subsection.

(2) Make or allow any sale of beer between the hours of 3:00 A.M. and 8:00 A.M. during any night of the week; except, on Sunday, make or allow between 3:00 A.M. and 10:00 A.M.

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

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

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

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

(7) Allow drunk persons to loiter about his property.

(8) Fail to provide and maintain unisex or separate sanitary toilet facilities for men and women.

(9) Fail to maintain proper visibility in the front windows at a height of at least five (5) feet from the pavement. (Ord. #041095, May 1995, as amended by Ord. #36-2003, Jan. 2004, Ord. #42-2004, Jan. 2005, Ord. #45-2005, May 2005, Ord. #149-2020, Dec. 2020, and Ord. #68-2007, Nov. 2007, modified)

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

Pursuant to *Tennessee Code Annotated*, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of *Tennessee Code Annotated*, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under *Tennessee Code Annotated*, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board

has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

8-214. Civil penalty in lieu of revocation or suspension.

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," *Tennessee Code Annotated*, § 57-5-601, *et seq.*

(2) Penalty, revocation or suspension.¹ The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the town may impose.

8-215. Loss of clerk's certification for sale to minor.² If the beer board determines that a clerk of an off-premises beer permit holder certified under *Tennessee Code Annotated*, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

¹State law reference
Tennessee Code Annotated, § 57-5-108(2).

²State law reference
Tennessee Code Annotated, § 57-5-607.

8-216. Violations and penalty. Except as provided in § 8-214, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. YARD SALES.
3. CABLE TELEVISION.
4. LANDSCAPING BUSINESS REGULATIONS.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers, street barkers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Number of permits per month.
- 9-111. Violations and penalty.

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

(1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the town, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

²Municipal code reference

Trespass by peddlers, etc.: § 11-801(5).

from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

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

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

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

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

(c) Has been in continued existence as a charitable or religious organization in Hawkins 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 town, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(5) "Transient vendor"¹ means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (2007 Code, § 9-101)

9-102. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (2007 Code, § 9-102)

9-103. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. (2007 Code, § 9-103)

¹State law references

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

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

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

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

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

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

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

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

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

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

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

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the recorder, the recorder shall submit to the chief of police a copy of the application form and the permit. (2007 Code, § 9-104)

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

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

(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 town.

(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. (2007 Code, § 9-105)

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, canceled 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. (2007 Code, § 9-106)

9-107 Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (2007 Code, § 9-107)

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

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

(2) Suspension or revocation by the board of mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (2007 Code, § 9-108)

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be

issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the town. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (2007 Code, § 9-109)

9-110. Number of permits per month. Permits for charitable or religious solicitations within the town's corporate limits shall be issued on a first to apply basis, to be conducted on the particular day of the month by the requesting charitable or religious organization. Any violation of this section will be subjected to a fine of not less than fifty dollars (\$50.00) per incident. (2007 Code, § 9-111, modified)

9-111. Violations and penalty. In addition to any other action the town 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. (2007 Code, § 9-110)

CHAPTER 2

YARD SALES

SECTION

- 9-201. Definitions.
- 9-202. Property permitted to be sold.
- 9-203. Display of sale property.
- 9-204. Advertising signs.
- 9-205. Persons exempted from chapter.
- 9-206. Violations and penalty.

9-201. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Garage sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance¹, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold.

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment. (2007 Code, § 9-201)

9-202. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (2007 Code, § 9-202)

9-203. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. A vehicle offered for

¹Municipal code reference

Zoning ordinance: title 14, chapter 2.

sale may be displayed on a permanently constructed driveway within such front or side yard. (2007 Code, § 9-203)

9-204. Advertising signs. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:

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

(b) Directional signs. Two (2) signs of not more than two (2) square feet each are permitted, provided that the premises on which the garage sale is conducted is not on a major thoroughfare, and written permission to erect such signs is received from the property owners on whose property such signs are to be placed.

(2) Time limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence.

(3) Removal of signs. Signs must be removed each day at the close of the garage sale activities. (2007 Code, § 9-204)

9-205. Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the Town of Surgoinsville, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (2007 Code, § 9-205)

9-206. Violations and penalty. Any person found guilty of violating the terms of this chapter shall be punished according to the general penalty provisions of this municipal code of ordinances. (2007 Code, § 9-206)

CHAPTER 3

CABLE TELEVISION

SECTION

9-301. To be furnished under franchise.

9-301. To be furnished under franchise. Cable television shall be furnished to the Town of Surgoinsville and its inhabitants under franchise agreements granted by the board of mayor and aldermen of the Town of Surgoinsville, Tennessee.¹ (2007 Code, § 9-301)

¹Cable television franchise agreements are on file in the office of the town recorder.

CHAPTER 4

LANDSCAPING BUSINESS REGULATIONS

SECTION

9-401. Persons engaged in business of landscaping or trimming, repairing, etc. of trees and shrubbery.

9-402. Disposal of limbs, etc.

9-403. Violations and penalty.

9-401. Persons engaged in business of landscaping or trimming, repairing, etc. of trees and shrubbery. No person shall perform any service of economic gain wherein trees or shrubbery are cut, trimmed, removed or altered, and wherein an accumulation of brush, wood, vines, debris or other refuse attendant to landscaping as a result of work or service without being equipped with a truck or other vehicle capable of removing said brush, wood, vines debris or other refuse which shall be so removed by the person causing or creating it accumulation. (Ord. #132-2017, May 2017)

9-402. Disposal of limbs, etc. (1) Any person, firm or corporation cutting or trimming trees for compensation within the corporate limits of Surgoinsville shall remove all cuttings, limbs, laps, and debris resulting from said work and deposit such in an appropriate manner outside corporate limits in a location acceptable pursuant to applicable law.

(2) Tree stumps, trunks, limbs, roots, leaves and other clippings resulting from normal maintenance and care, annual life cycle, landscaping or beautification of property will be removed by the Town of Surgoinsville provided that the following conditions are met:

(a) No stump, trunk, limb, root or other clipping shall exceed twelve feet (12') in length; and

(b) No stump, trunk, limb, root, or other clipping shall exceed twelve inches (12') in diameter; and

(c) Each piece shall be placed on the resident's property away from power lines and trees; and

(d) Leaves must either be bags and tied for truck pickup or windrowed at the curb/street, free of rocks and limbs for leaf vacuum pickup; and

(e) Grass clippings must be bagged and tied. (Ord. #132-2017, May 2017)

9-403. Violations and penalty. Any violation of this ordinance shall incur a civil penalty and/or fine of up to fifty dollars (\$50.00) for each offense. For each day such violation continues, constitutes a separate offense. (Ord. #132-2017, May 2017)

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

1. IN GENERAL.
2. DOGS AND CATS.
3. ANIMAL CONTROL DEPARTMENT.

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. Storage of food.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Violations and penalty.

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

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

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

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or

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

enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition.

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

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

10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed.

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

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

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Destruction of vicious or infected dogs running at large.
- 10-209. 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 without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (*Tennessee Code Annotated*, §§ 68-8-101 to 68-8-113) or other applicable law.

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

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

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

10-204. Vicious dogs.² (1) Definition of terms:

¹State law reference

Tennessee Code Annotated, § 68-8-107.

²See 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).

(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:

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

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

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

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

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

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

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

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

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

(6) Insurance. Owners of vicious dogs must within thirty (30) days of the effective date of this section provide proof to the city/town clerk of public liability insurance in the amount of at least one hundred thousand dollars

(\$100,000.00), insuring the owner for any personal injuries inflicted by his or her vicious dog.

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

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

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

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official. If the dog is wearing a tag or found to be implanted with a microchip, the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and has a tag evidencing such vaccination placed on its collar.

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

¹State law reference

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

10-208. Destruction of vicious or infected dogs running at large.

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer.¹

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

¹(...continued)

written agreement to have the animal spayed or neutered within 30 days of the adoption if the animal is sexually mature, or within 30 days after the animal reaches six (6) months of age if it is not sexually mature.

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

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

¹State law reference

Tennessee Code Annotated, § 44-17-301, et seq.

CHAPTER 3

ANIMAL CONTROL DEPARTMENT

SECTION

- 10-301. Municipal animal control department established.
- 10-302. Animals running at large may be seized.
- 10-303. Animals shall be kept at shelter.
- 10-304. Release of animal to owner.
- 10-305. Maintenance fee set.
- 10-306. Authority and control of animal control officer.

10-301. Municipal animal control department established. There is hereby established a municipal animal control department to be staffed on a part-time basis by individual(s) designated by the Board of Mayor and Aldermen of the Town of Surgoinsville. (2007 Code, § 10-301)

10-302. Animals running at large may be seized. The animal control officer(s) is empowered to seize all animals running at large or whose presence or activities are in violation of state law and/or municipal ordinances within the corporate limits of Surgoinsville. (2007 Code, § 10-302)

10-303. Animals shall be kept at shelter. The animal control officer(s) will be empowered to seize and remove animals whose presence or activities are in violation of state law and/or town ordinances, and to house them at the Hawkins County Humane Society. (2007 Code, § 10-303)

10-304. Release of animal to owner. Any owner desiring to reclaim his or her animal must contact the animal control officer to make the necessary arrangements. Before the animal control officer or Hawkins County Humane Society designated employee releases any animal to its owner, he shall (1) require and receive written proof that the owner has received a municipal court citation, and (2) collect and receipt the accrued maintenance fee. Upon conviction, the owner shall be required to pay the appropriate town, the city fine and court cost for allowing the animal to run at large or for violating any other applicable state law or city ordinance. (2007 Code, § 10-304)

10-305. Maintenance fee set. The maintenance fee is hereby set at thirty dollars (\$30.00) per day, which amount shall be used to defray the costs of operating the department. (2007 Code, § 10-305)

10-306. Authority and control of animal control officer. When the animal control officer(s) is operating within the municipal limits of Surgoinsville, he shall be considered to be acting under the supervision of the

chief of police for purposes of any liability claims which may arise from the officer's activities on public or private property. The activities of the animal control officer(s) in the surrounding cities/counties shall be treated as taking place under, and shall be sanctioned by, a mutual aid agreement between the cities/counties to assist one another in the elimination of dangers to the public health and safety and in furtherance of the protection of the general public. (2007 Code, § 10-306)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. TRESPASSING AND INTERFERENCE WITH TRAFFIC.

CHAPTER 1 ALCOHOL²

SECTION

- 11-101. Drinking alcoholic beverages in public, etc.
- 11-102. Minors in beer places.
- 11-103. Violations and penalty.

11-101. Drinking alcoholic beverages in public, etc. It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place. (2007 Code, § 11-201)

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

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

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

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.

11-201. 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 person 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, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(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, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

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

(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 week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(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.

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

(a) Town vehicles. Any vehicle of the town 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 town, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Amplifiers and loudspeakers may be used; however, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. Hours for the use of an amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit.

CHAPTER 3

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

11-301. Trespassing.

11-302. Interference with traffic.

11-301. Trespassing. (1) On premises open to the public.

(a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.

(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.

(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.¹ (2007 Code, § 11-801)

11-302. 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. (2007 Code, § 11-803)

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

TITLE 12**BUILDING, UTILITY, ETC. CODES¹****CHAPTER****1. PROPERTY MAINTENANCE CODE.****CHAPTER 1****PROPERTY MAINTENANCE CODE****SECTION**

12-101. Property maintenance code adopted.

12-102. Modifications.

12-103. Available in recorder's office.

12-104. Procedures.

12-105. Violations and penalty.

12-101. Property maintenance code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 through 6-54-506, and for the purpose of 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; providing for the issuance of permits and collection of fees therefor, the 2021 edition of the *International Property Maintenance Code*, published by the International Code Council, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the property maintenance code. (Ord. #172-2024, May 2024)

12-102. Modifications. (1) Definitions. Wherever the property maintenance code refers to the "chief appointing authority," "appointing authority," "governing authority" or "governing body" it shall be deemed to be

¹Municipal code references

Electricity and gas: title 19.

Fire protection and fireworks: title 7.

Planning and zoning: title 14.

Streets and sidewalks, etc.: title 16.

Waters and sewers: title 18.

a reference to the board of mayor and aldermen. Wherever "code official" is named or referred to, it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the property maintenance code.

(2) Permit fees. The permit fee for a property maintenance permit shall be twenty five dollars (\$25.00). (Ord. #172-2024, May 2024)

12-103. Available in recorder's office. Pursuant to the requirements of *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. (Ord. #172-2024, May 2024)

12-104. Procedures. Anyone desiring a property maintenance permit shall apply at the recorder's office during normal business hours. Each application shall be accompanied by non-refundable five dollar (\$5.00) application fee payable to the recorder. (Ord. #172-2024, May 2024)

12-105. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified. That the violation of any provision of this ordinance shall be punishable by a penalty of not more than fifty dollars (\$50.00). Each day of violation may constitute a separate offense. (Ord. #172-2024, May 2024)

TITLE 13**PROPERTY MAINTENANCE REGULATIONS¹****CHAPTER**

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. JUNKED MOTOR VEHICLES.
5. OVERGROWN AND DIRTY LOTS.

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

- 13-101. Smoke, soot, cinders, etc.
13-102. Stagnant water.
13-103. Dead animals.
13-104. Health and sanitation nuisances.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (2007 Code, § 13-101)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (2007 Code, § 13-102)

13-103. 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 recorder and dispose of such animal in such manner as the recorder shall direct. (2007 Code, § 13-103)

¹Municipal code references
Animals control: title 10.
Littering streets, etc.: § 16-107.
Toilet facilities in beer places: § 8-212(9).

13-104. 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. (2007 Code, § 13-104)

CHAPTER 2

SLUM CLEARANCE¹

SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Structures unfit for human habitation deemed unlawful.

13-201. Findings of board. Pursuant to *Tennessee Code Annotated*, § 13-21-101, *et seq.*, the board of mayor and aldermen finds that there exists in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

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

Governing body shall mean the board of mayor and aldermen charged with governing the town.

Municipality shall mean the Town of Surgoinsville, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

Owner shall mean the holder of title in fee simple and every mortgagee of record.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

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

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

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

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

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

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the _____ of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the _____.

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such

determination and shall issue and cause to be served upon the owner thereof an order:

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

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

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

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

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes as set forth in *Tennessee Code Annotated*, § 67-5-2010 and § 67-5-2410. In addition, the municipality may collect the costs assessed against the owner

through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Hawkins County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Surgoinsville to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of Surgoinsville. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness.

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

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

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

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

13-212. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

- (1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

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

CHAPTER 3

JUNKYARDS

SECTION

- 13-301. Definitions.
- 13-302. Junkyard screening.
- 13-303. Screening methods.
- 13-304. Requirements for effective screening.
- 13-305. Maintenance of screens.
- 13-306. Utilization of highway right-of-way.
- 13-307. Non-conforming junkyards.
- 13-308. Location along municipal streets.
- 13-309. Location of vehicle junkyards.
- 13-310. Maintenance of junkyards.
- 13-311. Rulemaking power of code enforcement officer.
- 13-312. Nuisance - injunction.
- 13-313. Work permit required.
- 13-314. Violations - penalties.

13-301. Definitions. (1) "Automobile graveyard" means any establishment, private property, or place of business which is maintained, used or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Five (5) or more such vehicles will constitute an automobile graveyard.

(2) "Municipal street" means any street within the municipality that is maintained by the municipality.

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

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

(5) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing,

keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

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

(7) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the town. (2007 Code, § 13-301)

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (2007 Code, § 13-302)

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

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

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

(3) Architectural barriers. The utilization of:

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

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

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

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen. (2007 Code, § 13-303)

13-304. Requirements for effective screening. Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the town. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

(1) Screens which provide a "see-through" effect when viewed from a moving vehicle shall not be acceptable.

(2) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

(3) Screening shall be located on private property and not on any part of the highway right-of-way.

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (2007 Code, § 13-304)

13-305. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the town.

If not replaced within sixty (60) days the town shall replace said screening and shall require payment upon demand. Failure to pay in full shall result in the fee plus interest to be assessed to the property and shall be combined with the subsequent taxation of the property by the town. (2007 Code, § 13-305)

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (2007 Code, § 13-306)

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

- (1) The junkyard must continue to be lawfully maintained.
- (2) There must be existing property rights in the junk or junkyard.
- (3) Abandoned junkyards shall no longer be lawful.
- (4) The location of the junkyard may not be changed for any reason.

If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the town.

(5) The junkyard may not be extended or enlarged. (2007 Code, § 13-307)

13-308. Location along municipal streets. No person shall establish, operate, or maintain a junkyard, any portion of which is within one thousand feet (1,000') of the nearest edge of the right of way of any municipal street except the following:

- (1) Those which are screened by natural objects, plantings, fences or other appropriate means, or otherwise removed from sight;
- (2) Those located within areas which are zoned for industrial use.
- (3) Those located within unzoned industrial areas, which areas shall be determined from the actual land use and defined by regulations to be promulgated by the Zoning Board of the municipality.

(4) Those which are not visible from the traveled way of the system. (2007 Code, § 13-308)

13-309. Location of vehicle junkyards. (1) On or after July 1, 1981, it shall be unlawful for any junkyard located within one thousand feet (1,000') of the nearest edge of the municipal right of way to operate without a junkyard control permit, which permits are hereby authorized to be issued by the municipality.

(2) Permits shall be valid for the fiscal years for which issued and shall be subject to renewal from year to year.

(3) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars (\$50.00) which is not subject to either proration or refund.

(4) All fees shall be deposited in the general fund for the administration of this ordinance. (2007 Code, § 13-309)

13-310. Maintenance of junkyards. Such yards shall be so maintained as to be in a sanitary condition, and so as not to be a menace to the public health or safety. (2007 Code, § 13-310)

13-311. Rulemaking power of code enforcement officer. The code enforcement officer is hereby given the authority to promulgate and enforce rules and regulations required to carry out the provisions of this ordinance. (2007 Code, § 13-311)

13-312. Nuisance - injunction. The municipality may apply to any court in the county in which said junkyard is located for an injunction to abate such nuisance. The district attorney generals are authorized to assist the municipality in the enforcement of this ordinance. (2007 Code, § 13-312)

13-313. Work permit required. Any owner or operator of a business establishment covered within this ordinance shall present upon request by the code enforcement officer a current, valid work permit pertaining to each vehicle in excess of the number of vehicles allowed by § 13-301(1). The permit shall include, but not be limited to the lawful owner of the vehicle, the nature of the repair work requested, the date of the repair agreement, and an approximate, reasonable anticipation of repair completion. (2007 Code, § 13-313)

13-314. Violations - penalties. Any person who shall establish, operate or maintain a junkyard, or who shall fail to obtain a permit contrary to the provisions of this ordinance, shall be guilty of a misdemeanor and shall be fined twenty five-dollars (\$25.00) and costs for each day of violation. Each day's subsequent violation shall constitute a separate offense. (2007 Code, § 13-314)

CHAPTER 4

JUNKED MOTOR VEHICLES

SECTION

- 13-401. Definitions.
- 13-402. Violations a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Violations and penalty.

13-401. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

Person shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

Private property shall include all property that is not public property, regardless of how the property is zoned or used.

Traveled portion of any public street or highway shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

Junk vehicle shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(1) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(2) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(3) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(4) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(5) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(6) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(7) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(8) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

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

13-402. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, maintain on private property a junk vehicle.

13-403. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building,

fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the town.

13-404. Enforcement. Pursuant to *Tennessee Code Annotated*, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this ordinance on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

(1) Request the town judge to issue a summons, or
(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by *Tennessee Code Annotated*, § 7-63-101 *et seq.*, or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

13-405. Violations and penalty. Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. In addition, pursuant to *Tennessee Code Annotated*, § 55-5-122, the municipal court may issue an order to remove vehicles from private property. Each day the violation of this chapter continues shall be considered a separate violation.

CHAPTER 5

OVERGROWN AND DIRTY LOTS

SECTION

- 13-501. Prohibition.
- 13-502. Designation of public officer or department.
- 13-503. Determination and notice to property owner.
- 13-504. Clean-up at property owner's expense.
- 13-505. Clean-up of owner-occupied property.
- 13-506. Utilities.
- 13-507. Administrative rules.
- 13-508. Appeal.
- 13-509. Judicial review.
- 13-510. Supplemental nature of this section.

13-501. Prohibition. Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, 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 the accumulations of debris, trash, litter, 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. (Ord. #128-2016, Sept. 2016)

13-502. Designation of public officer or department. The public works director is designated as the public official who shall exercise the powers set out in this chapter. (Ord. #128-2016, Sept. 2016)

13-503. Determination and notice to property owner. If it is determined by the public works director that any owner of record of real property has created, maintained or permitted to be maintained on such property the growth of trees, vines, grass, underbrush or the accumulation of debris, trash, litter, 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, the public works director shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. When an attempt at notification by United States mail fails or no valid last known address exists for the owner of record, the public works director may publish the notice in the Rogersville Review, a newspaper of general circulation in Hawkins County for no less than two (2) consecutive issues or personally deliver the notice to the owner of record. For purposes of this section, such publication shall constitute receipt of notice

effective on the date of the second publication of the notice and personal delivery shall constitute receipt of notice immediately upon delivery. The notice shall state that the owner of the property is entitled to a hearing. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:

- (1) A brief statement of this chapter, which shall contain the consequences of failing to remedy the noted condition;
- (2) The office address and telephone number of the public works director;
- (3) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the community;
- (4) That the notified party may return a copy of the notice, indicating their desire for a hearing, to the Office of the Recorder, Town of Surgoinville, at Town Hall, 1735 Main Street, Surgoinville, Tennessee 37873-0067. (Ord. #128-2016, Sept. 2016, modified)

13-504. Clean-up at property owner's expense. If the person fails or refuses to remedy the condition within ten (10) days after receiving the notice, the public works director shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. The Town of Surgoinville may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The Town of Surgoinville may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the register's office for Hawkins County, the costs, including the cost of the filing of the lien, shall be a lien on the property in favor of the Town of Surgoinville, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. (Ord. #128-2016, Sept. 2016)

13-505. Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the public works director shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. Section 13-504 shall apply to the

collection of costs against the owner of an owner-occupied residential property, except that the public works director shall wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register's office and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in § 13-504 for these charges. (Ord. #128-2016, Sept. 2016)

13-506. Utilities. If the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage or other materials, the ten (10) day period specified in subdivision (a)(l) shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays. (Ord. #128-2016, Sept. 2016)

13-507. Administrative rules. The board of mayor and aldermen may make any rules and regulations necessary for the administration and enforcement of this section by resolution. (Ord. #128-2016, Sept. 2016)

13-508. Appeal. Any owner of record who is aggrieved by the determination and order of the public works director may appeal that determination and order to the board of mayor and aldermen. The appeal shall be filed with the recorder within ten (10) days following the receipt of the notice issued pursuant to § 13-5-03. A request for a hearing shall be made within ten (10) days following the receipt of the notice issued pursuant to § 13-503. Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

13-509. Judicial review. Any person aggrieved by an order or act of the board, agency or commission acting under § 13-508 may seek judicial review of the order or act as provided pursuant to *Tennessee Code Annotated*, §§ 27-9-101 *et seq.*, for judicial review of administrative boards and commissions. The time period established in §§ 13-504-505 shall be stayed during the pendency of a hearing.

13-510. Supplemental nature of this section. The provisions of this chapter are in addition and supplemental to, and not in substitution for, similar authority in the charter or other applicable ordinance or law.

TITLE 14**ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOOD DAMAGE PREVENTION ORDINANCE.
4. STORMWATER, EROSION, AND SEDIMENTATION CONTROL.
5. MOBILE HOME PARKS.
6. HISTORIC ZONING COMMISSION.

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 a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members each of whom shall be a resident of the planning area; two (2) of these shall be the mayor or a person designated by the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (5) and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (2007 Code, § 14-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in

accordance with all applicable provisions of *Tennessee Code Annotated*, title 13. (2007 Code, § 14-102)

14-103. Additional powers.¹ 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. (2007 Code, § 14-103)

¹To make this section effective the municipality should request the State Planning Office, under authority granted by *Tennessee Code Annotated*, § 13-3-102 to designate the municipal planning commission as a regional planning commission.

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-202. Violations and penalty.

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Surgoinsville shall be governed by the "Zoning Ordinance of Surgoinsville, Tennessee," and any amendments thereto.¹

14-202. Violations and penalty. Violations of the zoning ordinance 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.

¹Ordinance No. 63-2007, and any amendments thereto, are published as separate documents and are of record in the office of the recorder.

CHAPTER 3

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

- 14-301. Statutory authorization, findings of fact, and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Provisions for flood hazard reduction.
- 14-306. Variance procedures.
- 14-307. Legal status provisions.

14-301. Statutory authorization, findings of fact, and objectives.

(1) Statutory authorization. The Legislature of the State of Tennessee has in §§ 13-7-201 through 13-7-210, *Tennessee Code Annotated* 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 Town of Surgoinsville, Tennessee, Mayor and Board of Aldermen, do ordain as follows:

(2) Findings of fact:

(a) The Town of Surgoinsville, 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), Ch. 1, Section 60.3.

(b) Areas of the Town of Surgoinsville, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

- (b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
 - (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
 - (d) Control filling, grading, dredging and other development which may increase flood damage or erosion;
 - (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
 - (4) Objectives. The objectives of this chapter are:
 - (a) To protect human life, health, safety and property;
 - (b) To minimize expenditure of public funds for costly flood control projects;
 - (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (d) To minimize prolonged business interruptions;
 - (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;
 - (f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;
 - (g) To ensure that potential homebuyers are notified that property is in a floodprone area;
 - (h) To maintain eligibility for participation in the NFIP.
- (Ord. #109-2014, June 2014)

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 (1'-3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard" see "Special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Base Flood Elevation (BFE)." The elevation of surface water resulting from a flood that has a one percent (1%) chance of equaling or exceeding that level in any given year. The BFE is shown on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE.

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

(10) "Building" see "Structure."

(11) "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.

(12) "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.

(13) "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.

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

(15) "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.

(16) "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.

(17) "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.

(18) "Existing structures" see "Existing construction."

(19) "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).

(20) "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

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

(21) "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.

(22) "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.

(23) "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.

(24) "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.

(25) "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.

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

(27) "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.

(28) "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.

(29) "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.

(30) "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.

(31) "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.

(32) "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.

(33) "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.

(34) "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.

(35) "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.

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

(37) "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 Town of Surgoinsville, 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.

(38) "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.

(39) "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.

(40) "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.

(41) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(42) "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.

(43) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(44) "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.

(45) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(46) "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.

(47) "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 creating this chapter or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(48) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(49) "100-year flood" see "Base flood."

(50) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(51) "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.

(52) "Recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(53) "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.

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

(55) "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.

(56) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(57) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units

or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency" 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.

(59) "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.

(60) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

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

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

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

The term does not, however, include either:

(c) 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;

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

(62) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(63) "Variance" is a grant of relief from the requirements of this chapter.

(64) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, 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. #109-2014, June 2014)

14-303. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of the Town of Surgoinsville, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Town of Surgoinsville, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number 47073C0095B, 47073C0235D 47073C0255D, and 47073C0260D dated July 3, 2006, 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:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body and;
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Surgoinsville, Tennessee or by any officer or employee thereof for any flood

damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Surgoinsville, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #109-2014, June 2014)

14-304. Administration. (1) Designation of ordinance administrator. The building official is hereby appointed as the administrator to implement the provisions of this chapter. In the absence of the building official, the code enforcement officer or mayor shall act as administrator.

(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 flood proofing criteria in § 14-305(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by, or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The

administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-304(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been flood proofed, in accordance with § 14-304(2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-304(2).

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Town of Surgoinsville, 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. #109-2014, June 2014)

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. 1344;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-305(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-305(1) are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall

have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-305(2).

(d) Standards for manufactured homes and recreational vehicles.

(i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels,

(B) In expansions to existing manufactured home parks or subdivisions, or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet

(3') in height above the highest adjacent grade (as defined in § 14-302).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-305(1) and (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (See § 14-305(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-303(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of 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 Town of Surgoinsville, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-303(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new

construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-305(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-305(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the Town of Surgoinsville, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2). Within approximate A Zones, require that those subsections of § 14-305(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(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 (1'-3') feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-305(1) and (2), apply:

(a) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-305(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-304(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-303(2) 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 14-305 shall apply.

(8) Standards for unmapped streams. Located within the Town of Surgoinsville, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-304 and 14-305. (Ord. #109-2014, June 2014)

14-306. Variance procedures. (1) **Municipal board of zoning appeals.**

(a) Authority. The Town of Surgoinsville, 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 Town of Surgoinsville, 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.

(iii) 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:

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

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

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

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

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

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

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

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

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

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

(iv) Upon consideration of the factors listed above, and the purposes of this chapter, the 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.

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

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-305(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. #109-2014, June 2014)

14-307. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the Town of Surgoinsville, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this Chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this chapter which is not of itself invalid or unconstitutional. (Ord. #109-2014, June 2014)

CHAPTER 4

STORMWATER, EROSION AND SEDIMENTATION CONTROL

SECTION

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14-401. Title. This chapter shall be known as the "Stormwater, Erosion and Sedimentation Control Ordinance of the Town of Surgoinsville, Tennessee." (2007 Code, 14-401)

14-402. Purpose. The purpose of this chapter is to conserve the land, water and other natural resources of the Town of Surgoinsville and Hawkins County; and promote the public health and welfare of the people by establishing requirements for the control of stormwater, erosion and sedimentation and by establishing procedures whereby these requirements shall be administered and enforced; and to diminish threats to public safety from degrading water quality caused by the runoff of excessive stormwater and associated pollutants to reduce flooding and to reduce the economic loss to individuals and the community at large. (2007 Code, § 14-402)

14-403. Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. "Development." Any activity on one acre or more or a site that is part of a common development encompassing one or more acres that involves making changes to the land contour by grading, filling, excavating removal, or destruction of topsoil, trees, or vegetative covering.
2. "Denuded area." Areas disturbed by grading, filling, or other such activity in which all vegetation has been removed and soil is exposed directly to the elements allowing for the possibility of erosion, stormwater and sediment run-off.
3. "Developer." Any person, owner, 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.
4. "Drainage." A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied to surface water.
5. "Drainage ways and local waters." Any and all streams, creeks, branches, ponds, reservoirs, springs, wetlands, sinkholes, wells, drainage ways and wet weather ditches, or other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the Town of Surgoinsville or the area under the regulatory responsibility of the Surgoinsville Planning Commission.
6. "Erosion." The general process whereby soils are moved by flowing surface or subsurface water.
7. "Grading permit." The permit that must be issued by the building inspector, or in his/her absence, the town's designee, before any land disturbing activity is undertaken by a developer, or when grading, filling, or excavating is proposed on a project.

8. "Land disturbing activity." Means any activity which may result in soil erosion from water or wind and the movement of sediments into drainage ways, or local water, including, but not limited to, clearing, grading, excavating, transportation and filling of land, except that the term shall not include:

a. Such minor land disturbing activities as home and gardens and individual home landscaping, repairs and maintenance work.

b. Construction, installation or maintenance of individual service connections, or septic lines and drainage fields or utility line construction.

c. Preparation for single family residences separately built, unless in conjunction with a site that is part of a common development encompassing one or more acres.

d. Emergency work to protect life, limb or property.

9. "Stormwater pollution prevention plan." For the purpose of this chapter, a Stormwater Pollution Prevention Plan (SWPPP) refers to a formal written document addressing grading, vegetation, drainage, and stormwater flows, erosion and sedimentation controls, as specified in §§ 14-405 through 14-408, that is reviewed by the building inspector/designee, reviewed by the Surgoinsville Planning Commission, and if approved by the planning commission, is used as the basis for the building inspector to issue a grading permit that allows land disturbing activity to proceed. (2007 Code, § 14-403)

14-404. Regulated land disturbing activities. 1. Except as provided in subsections (2) and (3) of this section, it shall be unlawful for any person to engage in any land disturbing activity on any commercial development, or any development, construction, or renovation activity involving at least one (1) acre without submitting and obtaining approval of a stormwater pollution prevention plan as detailed in §§ 14-406 through 14-409 of this chapter, and being issued a grading permit by the building inspector/designee.

2. Any person who owns, occupies and operates private agriculture or forest lands shall not be deemed to be in violation of this chapter of land disturbing activities which result from the normal functioning of these lands, however, the building inspector has the authority to require reasonable erosion and sedimentation control measures if pollution and run-off problems are evident.

3. Any state or federal agency not under the regulatory authority of the Town of Surgoinsville for stormwater management, erosion and sedimentation control. (2007 Code, § 14-404)

14-405. Permit required for any land disturbing activity. Any land disturbing activity, as defined, shall require a grading permit, in addition to any building permit that must be issued by the building inspector prior to the commencement of any work. Grading permits for land disturbing activities will be issued by the building inspector only upon the developer meeting

requirements outlined in §§ 14-404 through 14-412 of this chapter. (2007 Code, § 14-405)

14-406. Stormwater pollution prevention plan required. A Stormwater Pollution Prevention Plan (SWPPP) shall be required for all developments, subdivisions, or construction activities involving one (1) or more acres. A SWPPP shall be required for all commercial construction or renovation, or any multi family residential facility involving three (3) or more units. If necessary to protect the health and safety of the people, the building inspector and/or planning commission may, at its discretion, require a SWPPP for any development or renovation under five (5) acres, or subdivision with less than three (3) adjacent lots, or multi-family residential development under three (3) units. (2007 Code, § 14-406)

14-407. Plan requirements. The SWPPP shall be prepared and designed and certified by an engineer and/or surveyor licensed in the State of Tennessee. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage. The plan shall include at least the following:

1. Project description. Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
2. Contour intervals of five (5) or less showing present conditions and proposed contours resulting from land disturbing activity.
3. All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.
4. Existing land cover.
5. Approximate limits of proposed clearing, grading and filling.
6. Amount of approximate flows of existing stormwater leaving any portion of the site and where stormwater leaves the site. The appropriate calculations for making this determination shall be shown in the drainage plan.
7. Description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
8. Location, size and layout of proposed stormwater and sedimentation control improvements.
9. Proposed drainage network.
10. Proposed drain tile or waterway sizes.
11. Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The hydraulic calculations necessary to ensure adequately sized stormwater management structures must also be included.

12. The projected sequence of work represented by the grading, drainage and erosion and sedimentation control plans as related to other major items of construction.

13. Specific remediation measures to prevent erosion and sedimentation run-off, and to meet approved standards as outlined in § 14-408 of this chapter. Plans shall include detailed drawings for all control measures used; stabilization measures including vegetation and non-vegetative measures, both temporary and permanent, shall be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

14. Specific details for the construction of the entrance to the site for controlling erosion and road access points and for eliminating or keeping mud, sediment, and debris on Suroginsville streets and public ways at a level acceptable to the building inspector. Mud, sediment, and debris brought onto streets and public ways must be removed by the end of the day by machine, broom or shovel to the satisfaction of the building inspector and/or Suroginsville Law Enforcement Officer. Failure to remove said sediment, mud or debris shall be deemed a violation of this chapter.

15. Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site. (2007 Code, § 14-407)

14-408. Plan must contain measures to meet approved standards.

The SWPPP shall contain measures that will ensure development, construction or site work will meet or exceed the following standards:

1. The development fits within the topography and soil conditions in a manner that allows stormwater and erosion and sedimentation control measures to be implemented in a manner satisfactory to the Suroginsville Planning Commission. Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion.

2. Plans for development and construction shall minimize cut and fill operations. Construction and development plans calling for excessive cutting and filling may be refused a permit by the Suroginsville Planning Commission if it is determined that the land use permitted by the applicable zoning district could be supported with less alteration of the natural terrain.

3. During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills. Fills shall not encroach upon natural water courses, their flood plains; or constructed channels in a manner so as to adversely affect other properties.

4. Pre-construction vegetation ground cover shall not be removed, destroyed, or disturbed more than twenty (20) days prior to grading or earth

moving. No work shall occur until perimeter sedimentation and erosion control devices are in place to the building inspector's satisfaction.

5. Developers shall be responsible upon completion of land disturbing activities to leave slopes and developed or graded areas so that they will not erode. Such methods include, but are not limited to, re-vegetation, mulching, rip-rapping or gunniting, and retaining walls. Bank cuts and grades should not exceed 2 to 1 slope without use of a retaining wall and must be properly covered with mulch and vegetation. Regardless of the method used, the objective is to leave the site as erosion and maintenance-free as is practical.

6. Provisions are to be implemented that accommodate any increase in stormwater run-off generated by the development in a manner in which the existing levels of run-off are not increased during and following development and construction. Hydraulic calculations necessary to make accurate determinations will be based at a minimum on a two (2) year storm event. The planning commission may require designs based on larger storm events on a case-by-case basis. A combination of storage and controlled release of stormwater run-off shall be required for all development and construction.

7. Discharges from sedimentation basins or traps must be through piping, liners, rip-rap or properly grassed channels so that the discharge does not cause erosion.

8. Sedimentation basins (debris basins, desalting basins, or silt traps) and other drainage and sedimentation control measures shall be installed in conjunction with initial work and must be in place and functional prior to the initial grading operations. These measures must be maintained throughout the development process. Sediment basins and/or silt traps may be temporary, but shall not be removed without the approval of building inspector/designee.

9. Damage to vegetation or stream banks or waterways (those not regulated in other chapters of this code) shall be minimized within five (5) feet of each bank, except as necessary for the installation of utilities, development of roads, or construction of retention ponds and related drainage improvements.

10. Land shall be developed to the extent possible in increments of workable size that can be completed in a single construction season. Erosion and sedimentation control measures shall be coordinated with the sequence of grading development and construction operations. Control measures such as berms, interceptor ditches, terraces, and sediment and silt traps shall be put into effect prior to any other stage of development.

11. The permanent vegetation shall be installed on the construction site as soon as utilities are in place and final grades are achieved. However, without prior approval of an alternate plan by the Surgoinsville Planning Commission, permanent or temporary soil stabilization must be applied to disturbed areas within seven (7) days from substantial completion of grading and where disturbed areas will remain unfinished for more than thirty (30) calendar days.

12. Retention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof, these structures shall have planted trees and vegetation such as shrubs and permanent ground cover on their borders. Plant varieties shall be those sustainable in a drainage way environment. Woody material, such as trees, shall be kept from encroaching on the dam. Utilities shall not be constructed through the stormwater control device and must be accessible without disturbing the device.

13. In many situations, retention facilities and drainage structures need to be fenced in order to protect public safety. The Surgoinsville Planning Commission may require fencing for any basin or structure. When the planning commission requires fencing for any basin or structure. When the planning commission requires fencing, the following specifications apply. Alternate fencing plans may be considered when requested by the developer, residents, or if the planning commission feels some other form of fencing is more appropriate for the site.

- a. A minimum height of six feet (6');
- b. Line post must be 1 7/8" diameter, 16 gauge;
- c. Fence must be chained link of a minimum of 9 gauge, or approved alternative;
- d. A lockable access gate of a minimum width of twelve feet (12') must be provided to allow access by equipment and machinery as needed for maintenance.

14. SWPPP plans must meet minimum requirements established in *Tennessee Code Annotated* as follows:

- a. Name of applicant;
- b. Business or residence address of applicant;
- c. Name and address of owners of property involved in activity;
- d. Address and legal description of property, and names of adjoining property owners;
- e. Name(s) and address(es) of contractor(s), if different from applicant, and any subcontractor(s) who shall undertake the land disturbing activity and who shall implement the drainage and sedimentation control plan;
- f. A brief description of the nature, extent, and purpose of the land disturbing activity;
- g. Proposed schedule for starting and completing project. (2007 Code, § 14-408)

14-409. Plan development at owner's/developer's expense. Unless specifically approved by the board of mayor and aldermen, all SWPPPs shall be developed and presented at the expense of the owner/developer. (2007 Code, § 14-409)

14-410. Plan submitted to building inspector. Six (6) copies of the SWPPP shall be submitted directly to the building inspector at least fifteen (15) days prior to consideration. Any insufficiencies, violations noted or comments will be directed back to the applicant/developer. The plan will then be revised as required prior to being presented to the Surgoinsville Planning Commission. (2007 Code, § 14-410)

14-411. Final plan reviewed within sixty days. The Surgoinsville Planning Commission shall review SWPPPs as quickly as possible while still allowing for a thorough evaluation of the problems and mitigation measures identified and addressed. However, under no circumstances shall the planning commission take more than sixty (60) days to approve or disapprove the final submittal. (2007 Code, § 14-411)

14-412. Grading permit and bond. Following approval of the SWPPP by the planning commission, a grading permit shall be obtained from the building inspector. No grading permit shall be issued until a contractor performance bond is posted in the amount determined to be reasonable by the planning commission. The bond may not be higher than an amount equal to the estimated cost of the improvements, and said bond shall only be released by the building inspector following completion of construction and acceptance of the grading, vegetation, drainage, and erosion and sedimentation control measures. The bond shall be made out to the Town of Surgoinsville and if issued in conjunction with a subdivision plan, shall include the cost of paving, landscaping, and utilities including street lights. If it appears that the SWPPP activities approved by the Surgoinsville Regional Planning Commission will not be implemented within a twelve (12) month period, the Surgoinsville Planning Commission at its discretion after the notice of noncompliance has been properly issued as outlined in § 14-416 of this chapter and the developer has failed to comply, may cash said contractor's performance bond to complete all of the improvements approved or any portion of the SWPPP activities it deems necessary to protect the health and safety of residents and to protect the quality of local waters. Upon the posting of the bond, the developer must sign and have notarized and approved a certification granting permission for any SWPPP activities, and any landscaping, paving and utility improvements also approved, to be made on the property in case of default. (2007 Code, § 14-412)

14-413. Building inspector and/or town designee may require additional protective measures. The building inspector and/or the town's designee has the authority at their discretion to require ground cover or other remediation measures preventing stormwater, erosion and sediment run-off, if either determines after construction begins that the plan and/or implementation schedule approved by the planning commission does not adequately provide the protection intended in the ordinance and in the approval issued by the

commission. Additional protective measures required by the building inspector and/or the town designee that fall under the authority of the planning commission are subject to appeal under the procedures outlined in § 14-428 of this chapter. (2007 Code, § 14-413)

14-414. Retention/detention facilities and drainage structures maintained. All on-site retention basins and drainage structures shall be properly maintained by the owner/developer during all phases of construction and development so that they do not become a nuisance. Nuisance conditions shall include improper storage resulting in uncontrolled run-off and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facilities operation. The building inspector has the responsibility to see that the retention basin is properly maintained and operational. The developer shall provide the necessary permanent easements to provide town personnel access to the retention facilities and drainage structures for periodic inspection. A right-of-way to conduct such inspections shall be expressly reserved in the permit. (2007 Code, § 14-414)

14-415. Improperly maintained retention/detention facilities and drainage structures a violation. The building inspector and/or town designee shall periodically monitor and inspect the care, maintenance and operation of retention facilities and drainage structures during and after construction and development. Facilities found to be a nuisance, as defined in the Surgoinsville Municipal Code, are in violation of the ordinance and are subject to fines of fifty dollars (\$50.00) per day with each additional day considered a separate violation. (2007 Code, § 14-415)

14-416. Town may take ownership of retention facilities and drainage structures. The Surgoinsville Board of Mayor and Aldermen shall have the authority to accept or take ownership of retention facilities and drainage structures on behalf of the town provided that the board and planning commission feel the public interest is best served by the town providing on-going responsibility for maintenance for upkeep. In such cases, approval of the transfer of ownership shall only occur after the planning commission and the board of mayor and aldermen have received an inspection report from the building inspector that certifies said devices have been properly constructed and landscaped, are operating effectively, and appropriate safety and protective measures have been implemented or constructed. Transfer of ownership to the town shall occur at or near the completion of the subdivision or development and the developer must provide fee simple title to the property on which the retention/detention basin or drainage structure is located and/or any necessary easements allowing the Town of Surgoinsville access to the facilities for routine maintenance and care. (2007 Code, § 14-416)

14-417. Technical assistance. Through a memorandum of understanding with the Town of Surgoinsville, the Hawkins County Soil Conservation District staff and the Hawkins County extension agent are available for consultation and advice concerning stormwater management and erosion and sedimentation problems to all persons planning to develop land within the town or under the subdivision jurisdiction of the Surgoinsville Planning Commission. Tennessee Local Planning Assistance Office (LPAO) and Tennessee Department of Environment and Conservation (TDEC) staff may also be consulted. The planning commission and building inspector will use these consultants as needed to review SWPPPs prior to approval and provide assistance to the building inspector with inspections. (2007 Code, § 14-417)

14-418. Building inspector and/or designee responsible for providing safeguards in projects less than one acre. Projects undertaken within the corporate limits of Surgoinsville that are not subject to review and approval of the Surgoinsville Planning Commission shall fall under the responsibility of the Surgoinsville Building Inspector and/or the town designee to see that the measures required in this chapter to protect the health and safety of the people and to protect the quality of surface waters are carried out as needed. The building inspector shall require reasonable drainage, erosion and sedimentation control measures as part of the grading permit process outlined in § 14-405. Under no conditions shall the building inspector or town designee allow silt or sedimentation to enter drainage ways or adjoining properties, or allow stormwater flows to adversely impact adjoining properties. Denuded area, cuts and slopes shall be properly covered within the same schedule as directed in § 14-407(14) of this chapter. (2007 Code, § 14-418)

14-419. Grading permit also required for any project on less than one acre involving grading, filling, or excavation. A grading permit is also required for any development or construction activity, except as exempted in § 14-404 and those activities exempted from the definition of land disturbing activity, on property one acre or less. However, said development and construction activities do not require a formal SWPPP unless specifically requested by the planning commission. The building inspector shall require that all grading, vegetation, drainage, stormwater, erosion and sedimentation control measures necessary shall be implemented and shall meet the objectives established in this chapter. Developers must also present to the building inspector a description of the measures that will be taken to address the requirements established in § 14-404(14) and (15) of this chapter--avoiding mud, sediment, rock and debris on public ways and streets. These measures must be addressed prior to the building inspector issuing a grading permit. Measures preventing excess run-off and erosion must be in place prior to the commencement of grading and/or excavation. (2007 Code, § 14-419)

14-420. Existing developed properties with drainage, erosion and sediment concerns. Properties of any size within the corporate limits of the Town of Surgoinville that have been developed or in which land disturbing activities have previously been undertaken, are subject to the following requirements:

1. Denuded areas still existing must be with appropriate vegetation and/or mulch.
2. Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
3. Drainage ways shall be properly covered in vegetation or secured with stones, etc. to prevent erosion.
4. Junk, rubbish, etc. shall be cleared of drainage ways to help minimize possible contamination of stormwater run-off.
5. Stormwater run-off in commercial areas, office or medical facilities, and multi family residences of three (3) or more units shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures shall include, but not be limited to, the following:
 - a. Oil skimmer/grit collector structure. These structures are designed to skim off floatables out of parking lots and other impervious surfaces, and allow solids of debris and sediment to settle before being discharged in a local waterway.
 - b. Retention basins.
 - c. Planting and/or sowing of vegetation.
 - d. Rip-rapping, mulching, and other similar erosion control measures associated with local drainage ways. (2007 Code, § 14-420)

14-421. Improvements required in existing development normally at owner's expense. Drainage and sediment control measures required in existing developed properties shall normally be undertaken at the property or business owner's expense. The board of mayor and aldermen, however, at its discretion in circumstances in which board members feel the town's participation is essential to protecting the health and safety of residents and the water quality of Surgoinville's drainage ways, may approve cost sharing needed drainage and sedimentation control measures. (2007 Code, § 14-421)

14-422. Town may take responsibility for existing retention facilities and drainage structures. The Surgoinville Board of Mayor and Aldermen may, on behalf of the town, take responsibility for existing retention facilities and drainage structures if the Surgoinville Planning Commission or the board of mayor and aldermen itself so determines that the general public is better served when said facilities are under the long term maintenance responsibility of the town. Facilities considered shall be accepted as outlined in § 14-417 of this chapter. The Surgoinville Planning Commission may also recommend to the board of mayor and aldermen that the town participates in

making certain improvements to existing facilities in addition to accepting responsibility for their long term maintenance and care if the commission feels said improvements are in the best interest of the general public. (2007 Code, § 14-422)

14-423. Improvements required with existing developments subject to appeal. Improvements required by the building inspector and/or town designee as outlined in § 14-414 of this chapter are subject to appeal by the property/business owners to the Surgoinsville Planning Commission as specified in § 14-428. (2007 Code, § 14-423)

14-424. Monitoring, reports, and inspections. The building inspector and/or town designee, with the possible assistance of the soil conservationist and/or the county extension agent, shall make periodic inspections of the land disturbing activities, the stormwater management system installations, and other activities requiring a grading permit to ensure compliance with the approved plan. Inspections will evaluate whether the measures required in the SWPPP and/or grading permit and undertaken by the developer are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit. If the building inspector and/or town designee determines that the permit holder has failed to comply with plan approval, the following procedures shall apply:

1. A notice from the building inspector and/or town designee shall be served on the permit holder either by registered or certified mail, delivered by hand to the permit holder or an agent or employee of the permitted supervising the activities, or by posting the notice at the work site in a visible location, that the permit holder is in noncompliance.

2. The notice of noncompliance shall specify the measures needed to comply and shall specify the time within which such corrective measures shall be completed. The building inspector and/or town designee shall require a reasonable period of time for the permitted to implement measures bringing the project into compliance; however, if it is determined by the building inspector and/or town designee that health and safety factors or the damage resulting from noncompliance is extremely severe, immediate action may be required.

3. If the permit holder fails to comply within the time specified, the permit may be subject to revocation. In addition, the permitted shall be deemed to be in violation of the ordinance comprising this chapter and thus shall be subject to the penalties provided in this chapter.

4. In conjunction with the issuance of a notice of non-compliance or subsequent to the permittee not completing the corrective measures directed in the time period required, the building inspector or town designee may issue an order requiring all or part of the land disturbing activities on the site be stopped. The stop work order may be issued with or as part of the notice of

noncompliance, or may be delivered separately in the same manner as directed in § 14-124(1). (2007 Code, § 14-424)

14-425. Certificate of occupancy not issued until compliance with plan verified. The building inspector will not issue a certificate of occupancy necessary to occupy any commercial or residential establishment until all aspects of the drainage and sedimentation control plan have been completed, control devices constructed have been approved and accepted, and, if within a subdivision or commercial development, all paving, landscaping, and utilities, including street lighting if decorative lights are used, are approved and accepted. (2007 Code, § 14-425)

14-426. Plan construction acceptance and bond release. SWPPP activities must be inspected and accepted by the building inspector and/or the town designee. If within a commercial or subdivision development, streets, sidewalks, curbs and alleys, landscaping, street lighting, water, sewer, and any installation of power, telephone, cable, and gas utilities must be approved and accepted by the appropriate official. All monitoring and regulatory authorities shall complete an approval and acceptance form before the building inspector releases the associated performance bond. The building inspector and/or town designee will sign a release on the approval and acceptance form as soon as all of the project criteria have been satisfied and approved. (2007 Code, § 14-426)

14-427. Appeal of administrative action. Actions taken by the building inspector and/or town designee as authorized in §§ 14-414, 4-419, 14-425, 14-426 and 4-427 are subject to review by the Surgoinsville Planning Commission provided an appeal is filed in writing with the chairman of the planning commission within thirty (30) days from the date any written or verbal decision has been made which the developer feels adversely affects his/her rights, duties or privileges to engage in the land disturbing activity and/or associated development proposed. Drainage and sediment mitigation actions required by the building inspector and/or town designee with existing properties or developments are also subject to appeal to the Surgoinsville Planning Commission provided that appeals are made in writing, within thirty (30) days of receiving formal notification to the commission chairman citing the specific reason(s) the activity or activities required present a hardship and cannot be implemented. (2007 Code, § 14-427)

14-428. Town clean-up resulting from violations at developer/owner's expense. Town staff is authorized to take remedial actions to prevent, clean-up, repair or otherwise correct situations in which water, sediment, rock, vegetation, etc. ends up on public streets and/or right-of-ways resulting from violations of this chapter; where necessary drainage, erosion and sedimentation control measures have not been properly implemented. In such

cases, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition to a service charge of one hundred dollars (\$100.00) per hour. The town will invoice the developer/owner directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filing a lien against the property involved in the action. (2007 Code, § 14-428)

14-429. Penalties enforcement. Any developer or person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by any authorized enforcement officer or the Surgoinsville Planning Commission, shall be guilty of a misdemeanor, and each day of such violation or failure to comply shall be deemed a separate offense and punishable accordingly. Upon conviction, the developer or person shall be subject to fines of up to fifty dollars (\$50.00) for each offense, with each following day constituting a new offense. Unless otherwise specified within a section of this chapter, the building inspector is the designated enforcement officer of the ordinance comprising this chapter. The building inspector/town designee or any Surgoinsville Police Officer may issue citations for violations. (2007 Code, § 14-429)

14-430. Legal status provisions. 1. Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the Town of Surgoinsville, the most restrictive shall in all cases apply.

2. Severability. If any provision of this chapter is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any remaining provisions which are not of themselves invalid or unconstitutional. (2007 Code, § 14-430)

CHAPTER 5

MOBILE HOME PARKS

SECTION

- 14-501. Definitions.
- 14-502. Minimum standards.
- 14-503. General plan.
- 14-504. Registration.
- 14-505. Permits.
- 14-506. Enforcement.
- 14-507. Legal status provisions.

14-501. Definitions. (1) "Mobile home." A detached single-family dwelling unit with all of the following characteristics:

(a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

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

(c) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

(2) "Mobile home park" shall mean any plot of ground containing a minimum of two acres upon which two or more mobile homes are located or are intended to be located, but does not include sites where unoccupied mobile homes are on display for sale.

(3) "Buffer strip" shall mean a plant material which will provide a screen not less than six (6) feet in height.

(4) "Health officer" shall mean the health officer of the Town of Surgoinsville, Tennessee or his authorized representative.

(5) "Building inspector" shall mean the building inspector of the Town of Surgoinsville, Tennessee or his authorized representative.

(6) "Plumbing inspector" shall mean the plumbing inspector of the Town of Surgoinsville, Tennessee or his authorized representative.

(7) "Electrical inspector" shall mean the electrical inspector of the Town of Surgoinsville, Tennessee or his authorized representative. (2007 Code, § 14-501)

14-502. Minimum standards. (1) The site shall be located on a well drained and flood free site with proper drainage.

(2) The site shall not be exposed to objectionable smoke, noise, odors, insect or rodent harborage or other adverse influences.

(3) The site shall be located with direct access to an open public street.

(4) There shall be buffer strips along side and rear lot lines of the park.

(5) Each mobile home space shall be a minimum of two thousand five hundred (2,500) square feet with a minimum of seventy five (75) feet in depth, and shall abut on a driveway with unobstructed access to open approved public street. Each mobile home shall be set back a minimum of ten (10) feet from property lines and space lines, and there shall be a minimum distance of twenty (20) feet between mobile homes.

(6) Each mobile home space shall provide a two hundred (200) square foot space for an automobile parking space.

(7) No service building shall be located less than twenty (20) feet from any mobile home space. Service buildings shall be of permanent construction, adequately ventilated and lighted and built in conformity to all town codes and ordinances.

(8) The public water supply and sanitary sewer connections shall be provided to each mobile home space. Piping and connections shall be as specified and approved by the plumbing inspector.

(9) Each mobile home park shall provide a common area for playgrounds, and leisure time pursuits totaling a minimum of five hundred (500) square feet for each mobile home space exclusive of roadways, mobile home spaces and parking spaces.

(10) All service buildings shall be convenient to the spaces which they solely serve and shall be maintained in a clean and sanitary condition.

(11) The drives, walks, and parking areas shall be paved with a hard surface material which shall be not less than a double bituminous surface.

(12) Driveways shall be a minimum of twenty (20) feet in width.

(13) Any part of the park area not used for buildings or other structures, parking, or access ways shall be landscaped with grass, trees, shrubs, and pedestrian walks.

(14) The park shall be adequately lighted. (2007 Code, § 14-502)

14-503. General plan. The owner or lessee of the land parcel proposed for a mobile home park shall submit a plan for development to the Surgoinsville Regional Planning Commission for approval. The plan shall show:

(1) The park plan drawn to scale.

(2) The area and dimensions of the proposed park.

(3) The location and width of all roadways and walkways.

(4) The location and dimensions of any proposed service buildings and structures.

(5) The location of all water and sewer lines.

(6) The location of all equipment and facilities for refuse disposal and other park improvements.

- (7) A plan for drainage of the park.
- (8) A certificate of accuracy signed by the surveyor or engineer that the engineering work is correct.
- (9) Certificates and signatures of the health officer and building, electrical and plumbing inspectors.
- (10) A certificate for planning commission approval.
- (11) Any other information deemed pertinent by the planning commission. (2007 Code, § 14-503)

14-504. Registration. (1) Operators of all mobile home parks situated in the corporate limits of Surgoinsville shall keep a complete and permanent register of the inhabitants of the park, noting the following information:

- (a) Car license number and state.
 - (b) Names, age and sex of occupants of each mobile home.
 - (c) Dates of admission to and departure from the park.
- (2) No space shall be rented for residential use of a mobile home in any such park except for periods of thirty (30) days or more, and no mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the building, housing, plumbing, electrical, fire and health officer of the Town of Surgoinsville, Tennessee. (2007 Code, § 14-504)

14-505. Permits. (1) It shall be unlawful for any person to maintain or operate a mobile home park within the limits of the town, unless such person shall first obtain a permit.

(2) The annual permit fee for each mobile home park shall be two dollars and fifty cents (\$2.50) for each mobile home space situated within a mobile home park, with a minimum fee of twenty five dollars (\$25.00).

(3) The annual renewal of permits for mobile home parks shall be issued by the building inspector. The issuance of annual permits shall be contingent upon inspection and approval of the park by the health officer and building inspector. (2007 Code, § 14-505)

14-506. Enforcement. (1) These regulations shall be enforced by the building inspector.

(2) Any person or persons who shall willfully neglect or refuse to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day of violation shall constitute a separate offense. (2007 Code, § 14-506)

14-507. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the Town of Surgoinsville the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this chapter which is not of itself invalid or unconstitutional. (2007 Code, § 14-507)

CHAPTER 6

HISTORIC ZONING COMMISSION

SECTION

- 14-601. Purpose.
- 14-602. Jurisdiction.
- 14-603. General definitions.
- 14-604. Commission organization.
- 14-605. Meetings.
- 14-606. Application procedures.
- 14-607. Appeals process.
- 14-608. Amendments.

14-601. Purpose. To promote the educational, cultural, economic and general welfare of the people and safeguard the town's history and heritage as embodied and reflected in historic districts structures and buildings; to foster civic pride and the value of notable accomplishments of the past; to enhance the visual and aesthetic character, diversity, and interest of the town; to protect and enhance the town's attractions to residents, visitors, and tourists and serve as support and stimulus to business and industry and therefore strengthen the economy of the town. (Ord. #72-2008, June 2008)

14-602. Jurisdiction. The Town of Surgoinville's jurisdiction for requiring the filing of a certificate of appropriateness for exterior changes to buildings and structures shall be applicable within a historic zone or district as delineated on the official zoning map on file at Surgoinville Town Hall. It is the responsibility of the property owner or his representative to obtain an application if required. (Ord. #72-2008, June 2008)

14-603. General definitions. The following definitions are provided to guide in the preparation of the application for a certificate of appropriateness.

(1) "Alteration." Any act that changes the exterior features of a designated property.

(2) "Design or review guidelines." Recommendations adopted by Surgoinville Historic Zoning Commission which seek to preserve the historic, cultural, and architectural character of an area or of a structure.

(3) "Construction." The act of adding to an existing structure's exterior or the erection of a new principal or accessory structure on a lot or property in a historical district.

(4) "Demolition." Any act that destroys the external walls in whole or in part of a structure in a historic district.

(5) "Economic hardship." An economic burden imposed upon a resident property owner that is unduly excessive and prevents realization of a reasonable rate of return upon the value of his property.

(6) "Ordinary repair and maintenance." Any work, for the purpose and effect of which is to correct any damage, decay, or deterioration of a structure or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the deterioration, decay or damage using same materials or those materials available which duplicate the appearance of the original.

(7) "Relocation." Any change of the location of a structure in its present setting or to another setting.

(8) "Structure." A work of man such as a building, fence, dam, or other improvement to property made up of interdependent and interrelated parts in a definite pattern of organization. (Ord. #72-2008, June 2008)

14-604. Commission organization. (1) General. The Surgoinsville Historic Zoning Commission (SHZC) shall be composed of seven (7) persons, including an architect if available, a member of a local patriotic or historical group, a representative from the board of mayor and aldermen, and other citizens of the Town of Surgoinsville. These persons shall be appointed by the mayor with the approval of the board of aldermen. Initial appointments to the SHZC shall be structured so that the terms of no more than two (2) persons shall expire each year and their successors shall be appointed in like manner to ensure staggered terms of commission members. The normal terms of commission members shall be five (5) years after the original setup of the staggered terms. Appointment to the SHZC to fill vacancies will be made by the board of mayor and alderman (BMA) to serve the remaining unexpired term. Persons appointed to this Commission are charged to thoroughly familiarize himself/herself with all statutes, laws, ordinances, and other information relating to historic zoning in order to best serve the citizens of the town in this position.

(2) Election of officers. Officers of the Surgoinsville Historic Zoning Commission shall be elected during the regular July meeting or the next regularly scheduled meeting in which a quorum is present. Commission members shall be notified of the planned election of officers at least thirty (30) days prior to the regular June meeting.

(3) Chairperson. A chairperson shall be elected by the voting members of the SHZC. His/her term shall be for one (1) year, and he/she may serve for no more than three (3) consecutive terms. The chairperson shall decide all points of order and procedure, subject to the provisions of this act and *Robert Rules of Order*, unless directed otherwise by a majority of the commission in session at the time. The chairperson shall appoint sub-committees as required to aid in examining matters of interest to the commission.

(4) Vice-chairperson. A vice-chairperson shall be elected by the SHZC from among its members in the same manner as the chairperson and shall be

eligible for re-election. He/she shall serve as acting chairperson in the absence of the chairperson and at such times he/she shall have the same powers and duties as the chairperson.

(5) Secretary. A secretary shall be elected by the SHZC from among its members in the same manner as the chairperson and shall be eligible for re-election. The secretary shall be responsible for the mock (draft) minutes of Commission activities for use in developing the permanent record. As such, the secretary, subject to the direction of the chairperson of the commission shall ensure that these records of meetings, field reviews, workshops, etc are reviewed and approved by the commission, and then placed in the official records of the town in a timely manner. The secretary shall also initiate all correspondence of the commission. The secretary shall maintain records of attendance at commission meetings.

(6) Sub-committees. The chairperson may create sub-committees with the approval of the SHZC. At least one commission member must be a part of the sub-committee with other members of the general community. A design review sub-committee may be appointed to serve as an advisory counsel to the public for the SHZC to expedite questions in design review. It is recommended that at least three (3) members of the commission be appointed to serve on this sub-committee.

(7) Attendance requirements. Any member of the commission who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year may lose his/her status as a voting member of the SHZC and may be replaced by the town board. Absences due to sickness, loss of family members, or other emergencies of like nature shall be recognized as excused absences. Due to the necessity to have a quorum to conduct business prolonged illness or other such cause may cause a member to be replaced. When a member has exceeded the number of permitted absences, the secretary shall notify the chairperson for possible action by the BMA.

(8) Cognizant voting. No SHZC member shall vote on any matter deciding an application or a request to reconsider unless he/she has attended the commission's previous deliberations on such application, or shall otherwise have the approval of the chairperson to vote on such matter. The chairman's approval of that member to vote shall be contingent of the assurance by the member that he/she has familiarized themselves with the application and the minutes of any meetings at which the application was discussed.

(9) Applications involving commission members. Any member of the SHZC who has a direct or indirect interest in any property which is the subject matter of, or affected by a decision of the commission shall be disqualified from participating in the discussion, decision, or proceedings of the SHZC in connection therewith. However, the member may as a property owner present a proposal to the commission concerning his own property: at which time, he shall be acting within his rights as property owner, but shall not act as a SHZC member in any way with regard to his own property or proposed project.

(10) Limits on members of the commission. No SHZC member shall express individual opinions on the validity or proper judgment of any application or discuss any application with any parties prior to SHZC deliberations on such application, except as specified elsewhere. Violation of this rule shall be cause for dismissal from the commission.

(11) Removal of members of commission. Members of the commission may be removed by vote of the board of mayor and alderman for just cause. (Ord. #72-2008, June 2008)

14-605. Meetings. (1) Regular meetings. Regular meetings of the SHZC shall be held monthly at a time and place designated by the board of mayor and alderman, and shall normally be held in the town hall of Surgoinville. Time and place of the regular meeting may be modified by proper notification to each member of the commission, the public, and the press. Regular meetings may be cancelled by the chairperson, or in his absence the vice chairperson, by the posting of a notice in a public place at least twenty-four (24) hours prior to the scheduled meeting.

(2) Agenda for regular meetings. The agenda for the SHZC regular meetings should be posted at the town hall or the Surgoinville Post Office seven (7) days prior to the Commission meeting. When applicable the notice should list all applications to be reviewed in the coming meeting. These notices will serve as notification for property owners in the affected areas.

(3) Conduct of meetings. All meetings shall be open to the public. The order of business suggested for regular monthly meetings shall be as follows:

- (a) Call to order by chairperson.
- (b) Roll Call.
- (c) Reading and approval of minutes of previous meetings.
- (d) Report of sub-committees.
- (e) Old or unfinished business.
- (f) New business.
 - (i) Certificate of Appropriateness Applications.
 - (A) Identification and appropriate description of property.
 - (B) Presentation of proposal
 - (C) Commission discussion.
 - (D) Comments by other persons.
 - (E) Applicant response or rebuttal.
 - (F) Further commission discussion.
 - (G) Motion; second; discussion of motion; vote by commission.
- (g) Other new business.
- (h) Announcements, reports, or presentations.
- (i) Adjournment.

(4) Special called meetings and activities. Special meetings, field reviews, and/or workshops of the commission may be called at any time by the chairperson, or in his absence, the vice-chairperson. At least three (3) days' notice of the reason for the activity, including the start time, and place of the activity shall be given during a regular meeting of the commission or otherwise to each member of the commission by mail, telephone, or e-mail and be posted by the use of an emergency notice in a public place such as the town hall, the post office or via local media outlets.

(5) Quorum. At the beginning of each meeting of the SHZC, the chairperson shall by roll call vote establish that a quorum of four (4) members of the commission are present for the conduct of official business. If a quorum is not present, the chairperson may delay adjournment at his discretion to allow announcements, the introduction of special guests and/or presentation of programs and reports for the education of the commission and public. Workshops, field reviews, visits to other governmental meetings and the like shall not require a quorum of the commission, but all members will be included in notice of the activity. (Ord. #72-2008, June 2008)

TITLE 15**MOTOR VEHICLES, TRAFFIC AND PARKING¹****CHAPTER**

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

CHAPTER 1**MISCELLANEOUS²****SECTION**

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. 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. School safety patrols.
- 15-111. Driving through funerals or other processions.

¹Municipal code reference

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

²State law references

Drag racing: Tennessee Code Annotated, § 55-10-501.

Driving while intoxicated or drugged: Tennessee Code Annotated, § 55-10-401.

Driving while license is suspended or revoked: Tennessee Code Annotated, § 55-7-116.

Failing to stop after a traffic accident: Tennessee Code Annotated, § 55-10-101, et seq.

Possession of five (5) or more grams of methamphetamine while operating a vehicle: Tennessee Code Annotated, §37-17-408(d)(2).

- 15-112. Clinging to vehicles in motion.
- 15-113. Riding on outside of vehicles.
- 15-114. Backing vehicles.
- 15-115. Projections from the rear of vehicles.
- 15-116. Causing unnecessary noise.
- 15-117. Vehicles and operators to be licensed.
- 15-118. Passing.
- 15-119. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-120. Delivery of vehicle to unlicensed driver, etc.
- 15-121. Compliance with financial responsibility law required.
- 15-122. Vehicles with a gross vehicle weight rating greater than 35,000 pounds.
- 15-123. Truck traffic limited.
- 15-124. Adoption of state traffic statutes and regulations.

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. (2007 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. (2007 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. (2007 Code, § 15-104)

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 town 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. (2007 Code, § 15-105)

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

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (2007 Code, § 15-106)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (2007 Code, § 15-107)

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 town unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (2007 Code, § 15-108)

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 town.

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 reference

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. (2007 Code, § 15-110)

15-110. 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. (2007 Code, § 15-112)

15-111. 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. (2007 Code, § 15-113)

15-112. 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. (2007 Code, § 15-114)

15-113. 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. (2007 Code, § 15-115)

15-114. 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. (2007 Code, § 15-116)

15-115. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (2007 Code, § 15-117)

15-116. 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. (2007 Code, § 15-118)

15-117. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (2007 Code, § 15-119)

15-118. 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. (2007 Code, § 15-120)

15-119. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) **Definitions.** For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake

horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc).

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

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the 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) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact 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. (2007 Code, § 15-121)

15-120. Delivery of vehicle to unlicensed driver, etc.

(1) Definitions. (a) "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.

(b) "Adult" shall mean any person eighteen years of age or older.

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

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

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

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the Town of Surgoinsville 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 town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town. (2007 Code, § 15-122)

15-121. Compliance with financial responsibility law required.

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

(2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" shall be defined by *Tennessee Code Annotated*, § 55-12-139:

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

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

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

15-122. Vehicles with a gross vehicle weight rating greater than 35,000 pounds. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

"Gross vehicle weight rating." (GVWR) is the maximum (GVW) gross vehicle weight specified by the manufacturer for a single vehicle including the load.

(2) No vehicle with a gross vehicle weight rating in excess of thirty-five thousand (35,000) pounds shall travel on any street, avenue, alley, or public way except Phipps Bend Road, Highway 346 and Highway 11W within the municipal corporate limits of the Town of Surgoinsville except for the sole purpose of making deliveries and loading or unloading.

(3) The provisions of this section shall not be deemed to prohibit travel of such vehicles upon any street, avenue, alley, or public way in the Town of Surgoinsville for the actual loading or unloading of goods, wares, or merchandise provided, however, that "loading" and "unloading" as used in this section shall be limited to the actual time consumed in such operation.

(4) All governmental vehicles, recreational vehicles, and church buses shall be exempt from this section. (2007 Code, § 15-124)

15-123. Truck traffic limited. (1) "No thru trucks" signs shall be installed and enforced on Surgoinsville city streets of Creek Road and South Zion Hill for the safety of citizens and economic advantage of avoiding irreparable damage to the streets of the Town of Surgoinsville.

(2) Any person violating the provision of this section shall be guilty of an offense and upon conviction shall pay a penalty of up to fifty dollars (\$50.00) for each offense. Each occurrence shall constitute a separate offense. (2007 Code, § 15-125)

15-124. Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the town adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the town adopts *Tennessee Code Annotated*, § 55-4-101 through 55-4-135, §§ 55-8-181 to 55-8-193, §§ 55-8-199, 55-8-204, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-50-351 by reference as if fully set forth in this section.

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

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. (2007 Code, § 15-201)

15-202. Operation of authorized emergency vehicles.¹ (1) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred 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.

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

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

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (2007 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. (2007 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 policeman. (2007 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. Speed limits.

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. (2007 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. (2007 Code, § 15-302)

15-303. In school zones. Pursuant to Tennessee Code Annotated, § 55-8-152, the 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. (2007 Code, § 15-303, modified)

15-304. Speed limits. (1) There is established a maximum speed limit of twenty (20) miles per hour for all of Surgoinsville Creek Road.

(2) There is established a maximum speed limit of twenty (20) miles per hour on north and South Zion Hill Road.

(3) There is established a maximum speed limit of twenty (20) miles per hour on Lone Oak Road.

(4) The chief of police shall post official signs indicating said speed limits. (Ord. #116-2015, March 2015)

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.

15-401. 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 (2007 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. (2007 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 center line thereof and by passing to the right of the intersection of the center lines of the two roadways. (2007 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (2007 Code, § 15-404)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. When emerging from alleys, etc.
- 15-502. To prevent obstructing an intersection.
- 15-503. At railroad crossings.
- 15-504. At "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic control signals generally.
- 15-507. At flashing traffic control signals.
- 15-508. At pedestrian control signals.
- 15-509. Stops to be signaled.

15-501. 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. (2007 Code, § 15-502)

15-502. 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. (2007 Code, § 15-503)

15-503. 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 fifteen 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. (2007 Code, § 15-504)

15-504. 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. (2007 Code, § 15-505)

15-505. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (2007 Code, § 15-506)

15-506. At traffic control signals generally. Traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one 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. Provided, however, that generally a right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn shall not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the town at intersections which the town decides require no right turns on red in the interest of traffic safety.

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

(4) Steady red with green arrow:

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

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

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (2007 Code, § 15-507)

15-507. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the town 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 § 15-503 of this code. (2007 Code, § 15-508)

15-508. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the town, 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. (2007 Code, § 15-509)

15-509. 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. (2007 Code, § 15-510)

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. Regulation by parking meters.
- 15-607. Lawful parking in parking meter spaces.
- 15-608. Unlawful parking in parking meter spaces.
- 15-609. Unlawful to occupy more than one parking meter space.
- 15-610. Unlawful to deface or tamper with meters.
- 15-611. Unlawful to deposit slugs in meters.
- 15-612. Presumption with respect to illegal parking.
- 15-613. Vehicles with a gross vehicle weight rating greater than 35,000 pounds.

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

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

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (2007 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the town 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'). (2007 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 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. (2007 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 town, nor:

- (1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within fifteen feet (15') of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within twenty feet (20') of a crosswalk at an intersection;
- (7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
- (8) Within fifty feet (50') of the nearest rail of a railroad crossing;
- (9) 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 when properly signposted;
- (10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is (a) physically handicapped, or (b) parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under *Tennessee Code Annotated*, § 55-8-160(c). (2007 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 town as a loading and unloading zone. (2007 Code, § 15-605)

15-606. Regulation by parking meters. In the absence of an official sign to the contrary which has been installed by the town, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the board of mayor and aldermen, parking shall be regulated by parking meters

where the same have been installed by the town. The presumption shall be that all installed parking meters were lawfully installed by the town. (2007 Code, § 15-606)

15-607. Lawful parking in parking meter spaces. Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin has been deposited in the parking meter and the said meter has been activated or placed in operation in accordance with the instructions printed thereon. (2007 Code, § 15-607)

15-608. Unlawful parking in parking meter spaces. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in a parking space regulated by a parking meter for more than the maximum period of time which can be purchased at one time. Insertion of additional coin or coins in the meter to purchase additional time is unlawful.

No owner or operator of any vehicle shall park or allow his vehicle to be parked in such a space when the parking meter therefor indicates no parking time allowed, whether such indication is the result of a failure to deposit a coin or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing a coin therein at the time the vehicle was parked. (2007 Code, § 15-608)

15-609. Unlawful to occupy more than one parking meter space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space; provided, however, that vehicles which are too large to park within one space may be permitted to occupy two adjoining spaces provided proper coins are placed in both meters. (2007 Code, § 15-609)

15-610. Unlawful to deface or tamper with meters. It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (2007 Code, § 15-610)

15-611. Unlawful to deposit slugs in meters. It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States. (2007 Code, § 15-611)

15-612. 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. (2007 Code, § 15-612)

15-613. Vehicles with a gross vehicle weight rating greater than 35,000 pounds. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

"Gross vehicle weight rating." (GVWR) is the maximum (GVM) gross vehicle weight specified by the manufacturer for a single vehicle, including the load.

(2) No vehicle with a gross vehicle weight rating in excess of thirty five thousand (35,000) pounds shall park on or within five feet (5') of any street, avenue, alley, or public way including Highway 346 but exempting Highway 11W inside the corporate municipal town limits of the Town of Surgoinsville except for the sole purpose of making deliveries and loading or un-loading.

(3) The provisions of this section shall not be deemed to prohibit parking of such vehicles upon any street, avenue, alley, or public way in the Town of Surgoinsville for the actual loading or unloading of goods, wares, or merchandise provided, however, that "loading" and "unloading" as used in this section shall be limited to the actual time consumed in such operation. (2007 Code, § 15-613)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Violations and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, 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 town 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. (2007 Code, § 15-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (2007 Code, § 15-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation.

If the offense is a parking meter parking violation, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the

¹Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 1.

State law reference

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

recorder a fine of one dollar (\$1.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, but before a warrant for his arrest is issued, his fine shall be three dollars (\$3.00). For other parking violations the offender may similarly waive his right to a judicial hearing and have the charges disposed of out of court, but the fines shall be three dollars (\$3.00) within thirty (30) days and five dollars (\$5.00) thereafter, except for the violation of parking in a handicapped parking space under § 15-604 (13) of this code, for which the offender may be punished according to the general penalty provisions of this code of ordinances. (2007 Code, § 15-703)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked, so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pay all applicable fees and costs or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be equal to the fee charged by the wrecker service who tows the vehicle. The storage cost of the impounded vehicle shall be thirty dollars (\$30.00) a day for each motor vehicle stored in the impoundment lot. Any part of a day shall count as a whole day. (Ord. #123-2016, May 2016)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in *Tennessee Code Annotated*, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of *Tennessee Code Annotated*, §§ 55-16-103 through 55-16-109. (2007 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 recorder a fine of _____ dollars (\$____) 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 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 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) Disabled parking violations, or parking in a space designated for disabled drivers without legal authority, shall be punishable as provided in state law, *Tennessee Code Annotated*, § 55-21-108.

TITLE 16**STREETS AND SIDEWALKS, ETC.¹****CHAPTER**

1. MISCELLANEOUS.
2. EXCAVATIONS.
3. REQUIREMENTS FOR PUBLIC STREETS.

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

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 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, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (2007 Code, § 16-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (2007 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. (2007 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 (2007 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 aldermen after a finding that no hazard will be created by such banner or sign. (2007 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 law. (2007 Code, § 16-106)

16-107. Littering streets, alleys, or sidewalks prohibited.

It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (2007 Code, § 16-107)

16-108. Obstruction of drainage ditches.

It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (2007 Code, § 16-108)

16-109. Abutting occupants to keep sidewalks clean, etc.

The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (2007 Code, § 16-109)

¹Municipal code reference

Building code: title 12, chapter 1.

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the town recorder. (2007 Code, § 16-110)

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (2007 Code, § 16-112)

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (2007 Code, § 16-113)

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

EXCAVATIONS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Driveway cuts and construction.
- 16-208. Insurance.
- 16-209. Time limits.
- 16-210. Supervision.
- 16-211. Violations and penalty.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the town recorder is open for business, and the permit shall be retroactive to the date when the work was begun. (2007 Code, § 16-201)

16-202. Applications. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an

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).

agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (2007 Code, § 16-202)

16-203. Fee. The fee for such permits shall be fifty dollars (\$50.00). (2007 Code, § 16-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or five thousand dollars (\$5,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder may 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 town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (2007 Code, § 16-204)

16-205. Safety restrictions on excavations. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (2007 Code, § 16-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this town shall restore the street, alley, or public place to its original condition except for the surfacing, which shall be done by the town but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of

doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (2007 Code, § 16-206)

16-207. Driveway cuts and construction. (1) Standards. Driveway cuts shall meet all of the applicable standards:

(a) Driveways shall be constructed to conform to the existing paved street grade.

(b) Driveways shall cross the sidewalk area (if any) to allow for a smooth and continuous sidewalk (either existing or proposed) along the city rights-of-way.

(c) All driveways shall have a sufficient rock or stone base to keep mud and dirt off of the road.

(d) Driveway drainage tiles must be galvanized metal, plastic or concrete. If plastic is used it must meet state specifications and have headwalls installed. All pipe must be covered with a minimum of six (6) inches of crusher run stone. The driveway tile must have a minimum diameter of fifteen inches (15").

(e) If the driveway has a 10% of greater slope from the road, the first twenty feet (20') of the driveway from the edge of the pavement must be paved with concrete or asphalt. A French drain must be installed no more than five feet (5') from the pavement edge. Concrete must have a minimum thickness of four inches (4") and asphalt should have a minimum thickness of two inches (2") after compaction.

(f) Cuts to existing curbing and or streets shall be done by sawing; curbs and/or street shall be repaired to original condition. This shall be the responsibility of the property owner and, if used, the contractor. No final permit shall be issued until this work is complete.

(g) Property owners shall be responsible for maintaining driveways and cleaning up any material that washes off the driveway into the right of way.

(2) Inspection required for permit. A driveway cut permit is required for any new driveway cut which extends into the right-of-way. A permit must be issued by the building inspector or his/her designated alternate prior to commencement of any work. The purpose of the permit is to assure the proper placement and construction of new driveway connections.

A field inspection shall be required prior to the issuance of a driveway cut permit. Applicants must complete the following before beginning any work:

(a) Contact city hall to request a field inspection prior to constructing a driveway. The property owner should provide his/her

name, phone number, and address and/or subdivision name and lot number.

(b) The property owner should locate the proposed driveway connection location and width with flags or spray paint at the edge of pavement.

(c) The inspector will inspect the location within seventy two (72) hours of contact. The inspector will provide an inspection report which will either approve the requested location or designate a new driveway location and specify the size of the drain tile required for adequate drainage.

(d) A copy of the inspection report will be sent to the property owner and city hall.

(e) The property owner may proceed with the driveway connection upon receipt of the field inspection report. Once work is complete, the property owner should contact city hall to request a final inspection.

16-208. 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 \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (2007 Code, § 16-207)

16-209. 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 town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (2007 Code, § 16-208)

16-210. Supervision. The person designated by the board of mayor and aldermen shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town 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. (2007 Code, § 16-209)

16-211. 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.

CHAPTER 3

REQUIREMENTS FOR PUBLIC STREETS

SECTION

- 16-301. Minimum construction standards must be met.
- 16-302. Regional Planning Commission shall study plat.
- 16-303. Permits for street entrances.
- 16-304. Penalty for violation.

16-301. Minimum construction standards must be met. The Board of Mayor and Aldermen of Surgoinsville, Tennessee shall not accept as a public street any recorded right-of-way until it has met the minimum construction standards of the Subdivision Regulations of the Town of Surgoinsville, Tennessee. (2007 Code, § 16-301)

16-302. Regional Planning Commission shall study plat. Prior to final acceptance of a proposed street as a public street, the Surgoinsville Regional Planning Commission shall study a plat of the proposed street and make its approval or disapproval known to the board of mayor and aldermen. (2007 Code, § 16-302)

16-303. Permits for street entrances. A representative of the Surgoinsville Street Department shall meet with the person or persons making the request at the site and shall require, before a permit is issued, that the following conditions are met:

- (1) All drives be located at right angle with the town street.
- (2) Suitable tile adequately sized shall be installed in a manner that will not impair or alter existing drainage. The tile shall be a minimum of twenty (20) feet in length.
- (3) Driveways shall be located with as long a site distance as possible. Where possible the drive shall not be located on a curve or hill.
- (4) Driveways shall not be located near street intersections.
- (5) The driveway width shall be adequate to provide sufficient turning radius and the driveway shall be as near level as possible at the road entrance to provide easy and safe ingress and egress and to provide good visibility.
- (6) Properties with fifty (50) feet or less of public road frontage are permitted only one (1) drive entrance. Properties with more than fifty (50) feet frontage are allowed only two (2) entrances.
- (7) Some exceptions may be made to these requirements at the discretion of the Surgoinsville Street Department provided that the topography or the situation warrants a variance.

(8) It shall be unlawful for any grading contractor to initiate construction of a driveway entrance until a permit is obtained by the property owner or contractor as required in this section.

(9) The Surgoinsville Street Department may require a bond to cover damages to the town streets from construction of driveways or installation of utilities along or across the town street. The amount of such bond shall be determined by the Surgoinsville Street Department. (2007 Code, § 16-303)

16-304. Penalty for violation. Any person, firm, or corporation violating the provisions of this chapter, upon conviction thereof, shall be subject to a fine of up to fifty dollars (\$50.00). Each day of violation shall constitute a separate offense. (2007 Code, § 16-304, modified)

TITLE 17**REFUSE AND TRASH DISPOSAL****CHAPTER****1. REFUSE.****CHAPTER 1****REFUSE****SECTION**

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection for residents only.
- 17-108. Collection vehicles.
- 17-109. Disposal.
- 17-110. Refuse collection fees.
- 17-111. Non-residential collection practices.
- 17-112. Violations and penalty.

17-101. Refuse defined. (1) Refuse shall mean and include garbage, rubbish, leaves, brush, shrubbery and tree trimmings as those terms are generally defined except that the following items are expressly excluded therefrom and shall not be stored therewith.

- (a) Bulk rubbish and construction waste;
- (b) Stumps, or large pieces of wood;
- (c) Flammable liquids, solids or gases, such as gasoline, oil, paint, benzine, alcohol, or other similar substances;
- (d) Any material that could be dangerous or injurious to town employees or which could cause damage to town equipment;
- (e) Hot materials such as ashes, cinders, etc.;
- (f) Human or animal waste, unless it is placed and secured in a plastic bag or suitable paper bag before being placed in the container;
- (g) Infectious wastes;
- (h) Human/animal remains;
- (i) Large plastic objects;
- (j) Numerous metal objects;
- (k) Large automobile parts, including tires;
- (l) Industrial waste;

(m) Hazardous waste;

(n) Prior to being deposited as refuse for collection in approved containers, all cardboard boxes and cartons shall be completely collapsed.

(2) The violation of any provision of this section shall be punishable by a penalty of not more than fifty dollars (\$50.00). Each day of violation may constitute a separate offense. (Ord. #167-2023, Dec. 2023)

17-102. Premises to be kept clean. All persons within the town 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. (2007 Code, § 17-102)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this town where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the town handles mechanically. Furthermore, except for containers which the town handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. (2007 Code, § 17-103)

17-104. Location of containers. Where alleys are used by the town refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the town refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the town for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (2007 Code, § 17-104)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (2007 Code, § 17-105)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the streets superintendent. Collections shall be made regularly in accordance with an announced schedule. (2007 Code, § 17-106)

17-107. Collection for residents only. (1) Refuse collection is intended for persons whose primary residence is in the Town of Surgoinville only. Likewise, businesses must be located within the town limits to be eligible for refuse collection. It shall be unlawful for a resident to allow a non-resident to deposit refuse on his property for collection by the town.

(2) Violations of this section shall be punishable according to the general penalty provision of this municipal code of ordinances. In addition, the town may withhold refuse collection from residents who allow non-residents to deposit refuse on their property for collection by the town. (2007 Code, § 17-107)

17-108. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (2007 Code, § 17-108)

17-109. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (2007 Code, § 17-109)

17-110. Refuse collection fees. Refuse collection fees shall be at such rates as are from time to time set by the board of mayor and aldermen by ordinance or resolution.¹ (2007 Code, § 17-110)

17-111. Non-residential collection practices. (1) Containers, storage and requirements. A bulk container is required for all non-residential establishments and multiple unit housing facilities, respectively. The size and number of bulk containers purchased by non-residential establishments and multiple unit housing facilities shall be approved by the public works director or his designee. Those non-residential establishments using commercial curbside collection service prior to the adoption of this chapter may be exempted from using a bulk container so long as the accumulation of their garbage between scheduled pickups can be placed in four (4) or less residential containers. A need

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

for more than four (4) residential containers will require that establishment to acquire an acceptable bulk container. The public works director may exempt non-residential establishments from use of bulk containers if the volume of garbage does not justify such use and/or if no suitable site for a bulk container can be found.

(a) The minimum facilities for any bulk container(s) shall be a paved concrete pad with the size approved by the public works director. Facilities for washing bulk containers, and a trap drain hooked to sanitary sewer if available or otherwise hooked to the subsurface sewage disposal system should be included as well.

(b) Collection of refuse for non-residential establishments shall be limited to garbage stored in bulk containers, except by special arrangements.

(c) The following items shall be prohibited from being placed in any bulk container:

- (i) Bulk rubbish and construction waste;
- (ii) Shrubbery and tree trimmings, stumps, or large pieces of wood;
- (iii) Flammable liquids, solids or gases, such as gasoline, oil, paint, benzine, alcohol, or other similar substances;
- (iv) Any material that could be hazardous or injurious to town employees or which could cause damage to town equipment;
- (v) Hot materials such as ashes, cinders, etc.;
- (vi) Human or animal waste, unless it is placed and secured in a plastic bag or suitable paper bag before being placed in the container;
- (vii) Infectious wastes;
- (viii) Human/animal remains;
- (ix) Large plastic objects;
- (x) Numerous metal objects;
- (xi) Large automobile parts, including tires.

(d) No industrial waste shall be placed in any container used for refuse collection by the town. The collection and disposal of industrial waste shall be the responsibility of the owner, lessee, occupant or producer.

(e) No hazardous waste shall be placed in any container used for refuse collection by the town. The collection and disposal of such refuse shall be the responsibility of the owner, lessee, occupant or producer.

(f) Prior to being deposited as refuse for collection in approved containers, all cardboard boxes and cartons shall be completely collapsed.

(2) Collection practices: Garbage collection, frequency, placement, etc.

Based upon the non-residential establishment's refuse collection needs, the public works director is authorized and directed to prepare schedules for regular

collection of refuse. Frequency of collection will depend upon the establishment's number and size of bulk containers and garbage generated.

(a) Collection of refuse for non-residential establishments shall be limited to garbage stored in authorized bulk containers. Refuse not authorized to be placed in bulk containers shall be removed by the owner or producer unless special arrangement pickups can be scheduled by the public works director.

(b) Garbage shall not be compacted or heavy items placed in with normal trash to cause the weight of the bulk container to exceed safe loading or handling capacities of garbage collection trucks. If bulk containers are filled so as to exceed the above stated limit, the refuse shall be removed and properly disposed of by the owner and/or producer at their expense.

(c) It shall be incumbent upon tenants, lessees, occupants or owners of non-residential establishments to provide a safe and convenient entrance to and through the premises for the purpose of collecting refuse. The town shall not be liable for damage done to driveways, parking lots or other properties, resulting from normal use for ingress and egress to collect refuse, unless caused by negligence on the part of the town or its employees.

(d) Nothing in this section shall prohibit non-residential establishments from removing their own solid waste or from contracting with a private collector for such removal provided that the collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys.

(e) Upon approval by the public works director, a non-residential establishment may be eligible to use residential containers and receive service the same as residential users.

(3) Appeal from any decision of the public works director. Any person who believes that the public works director has erred in the interpretation or application of the provisions of this section of the code of ordinances in making a decision relating to refuse collection from non-residential establishments and multiple unit housing facilities pursuant to this section of the code of ordinances, may within ten (10) days from the date of such decision file a written request with the recorder to have that decision reviewed by the board of mayor and aldermen, which request shall include a sworn statement identifying the specific section or subsection of the code of ordinances at issue and specifically stating all of the facts and circumstances constituting such error in the interpretation or application of the provisions of this section of the code of ordinances. During the pendency of any such review, the decision of the public

works director shall remain in full force and effect. Thereafter, the board of mayor and aldermen in its administrative capacity may consider the decision and may make or cause to be made such additional investigation or inquiry it deems advisable. Upon the conclusion of said investigation or inquiry, the board of mayor and aldermen may, at a regular or specially called meeting, make such determination in the matter as appears to be in the best interest of the general health, safety and welfare of the town, which determination shall be final. All interested parties shall have an opportunity to be heard at such meeting. Such final determination by the board of mayor and Aldermen may take the form of an excerpt of the minutes of the meeting of the board of mayor and aldermen at which such determination was made.

(4) Fees. (a) A collection fee as specified by resolution shall be charged for every bulk container serviced by the town;

(b) A landfill tipping fee as specified by resolution shall be charged for every bulk container serviced by the town;

(c) An excess collection fee as specified by resolution shall be charged for every extra service of a bulk container serviced by the town. (Ord. #162-2023, Feb. 2023)

17-112. 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.

TITLE 18**WATER AND SEWERS****CHAPTER**

1. SEWERS AND SEWAGE DISPOSAL.
2. ADMINISTRATION AND ENFORCEMENT.
3. GENERAL WASTEWATER DISPOSAL.
4. PRIVATE WASTEWATER DISPOSAL SYSTEMS AND HOLDING TANKS.
5. PRETREATMENT.
6. COMPLIANCE MONITORING.
7. FEES AND BILLING.
8. SEWER EXTENSION POLICY.
9. CONTRACT FOR SEWER BILLING, ETC.
10. UTILITY DISTRICTS.

CHAPTER 1**SEWERS AND SEWAGE DISPOSAL****SECTION**

- 18-101. Definitions.
- 18-102. Abbreviations.
- 18-103. Purpose and policy.
- 18-104. Retention of records.
- 18-105. Time of report filing.

18-101. Definitions. The following words, terms and phrases, when used in title 18, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) "Act" or "the act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 *et seq.*

(2) "Authorized representative of a user" means:

(a) If the user is a corporation:

(i) The president, chief executive officer, secretary, treasurer or a vice-president of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one or more manufacturing, production or operation facilities if 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 facility, a manager or highest official, elected or appointed, designated to oversee the operation and performance of the activities of the government facility or their designee.

(d) The individuals described in § 18-101(2)(a)(i) and (ii) of this definition may designate another authorized representative if the authorization is submitted to the manager in writing, and 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.

(3) "Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty degrees Celsius (20° C), usually specified as a concentration (e.g., milligrams per liter (mg/l)).

(4) "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

(5) "Categorical standard" or "categorical pretreatment standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with 33 USC 1317, which apply to a specific category of users and which appear in 40 CFR 405 through 471.

(6) "Compliance order" means an order signed by the manager that identifies a series of events the user must take, along with a prescribed timetable, to achieve compliance with the requirements of title 18, any permit requirement or any other valid order.

(7) "Cooling water" means the water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

(8) "Domestic wastewater" means wastewater that is generated by a single-family residence, apartment or residential unit. Specifically excluded from this definition is any categorical or significant industrial facility.

(9) "Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the regional water management division manager or other duly authorized official of the agency.

(10) "Existing source" means any source of discharge, the construction or operation of which commenced prior to publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the act.

(11) "Garbage" means solid wastes from domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

(12) "Holding tank waste" means any waste from holding tanks, such as but not limited to vessels, chemical toilets, trailers, septic tanks and vacuum pump tank trucks.

(13) "Industrial user" means a nondomestic source of wastewater entering the POTW.

(14) "Interference" means a discharge, which alone or in conjunction with a discharge from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or is a cause of a violation of the any applicable NPDES permit; or prevents sewage sludge use or disposal in compliance with any of the following statutory or regulatory provisions or permits issued thereunder or any more stringent state or local regulations: Section 405 of the act; the Solid Waste Disposal Act, including title 11, commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

(15) "New source" means:

(a) Any building, structure, facility or installation from which there is or maybe a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building, structure, facility or installation is constructed at a site at which no other source is located;

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type or 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 § 18-101(15)(a)(ii) and (iii) of this definition but otherwise alters, replaces or adds to existing process or production equipment.

(c) Construction of a new source, as defined, has commenced if the owner or operator, has:

(i) Begun or caused to begin, as part of a continuous on-site construction program, any placement, assembly or installation of facilities or equipment; or significant site

preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

(16) "Manager of public utilities" or "manager" means the chairman of the public utilities board or a duly authorized representative or such person employed by the town, and so designated by the board of mayor and aldermen as "manager" of the public utilities board; the control authority as specified by 40 CFR 403.12.

(17) "Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate products, waste products or finished products.

(18) "Nondomestic source" means any source of discharge of wastewater from any facility other than a residential unit meeting the requirements of a domestic wastewater producer.

(19) "Notice of violation (NOV)" means a written notice signed by the manager that notifies a user that a violation of any permit requirement, any section of title 18 or any other valid order has occurred and describes the facts of the violation.

(20) "National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318 and 405 of the Clean Water Act (CWA).

(21) "Pass through" means a discharge that exits the POTW into the waters of the state in quantities or concentrations which, alone or in conjunction with a discharge from other sources, is a cause of violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

(22) "Person" means 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. This shall include all federal, state and local governmental entities.

(23) "pH" means a measure of the acidity or alkalinity of a solution. The logarithm (base 10) of the reciprocal of the concentration of the hydrogen ions measured in grams per liter of solution and expressed in standard units (SU).

(24) "Pollutant" means dredged spoil, solid waste, incinerator residue,

filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, industrial, municipal and agricultural waste discharged into water, or wastewater having been changed in pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor.

(25) "Pollution" means the manmade or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

(26) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means except by diluting the concentration of pollutants unless allowed by an applicable pretreatment standard.

(27) "Pretreatment requirement" means any substantive or procedural requirement related to pretreatment imposed on a user, other than a national pretreatment standard imposed on an industrial user.

(28) "Pretreatment standards" means prohibited discharge standards, categorical pretreatment standards and local limits.

(29) "Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain substances as set out in § 18-305.

(30) "Public sewer" means a sewer controlled or maintained by the town.

(31) "Publicly owned treatment works (POTW)" means a treatment works as defined by 33 USC 1292 and owned by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of domestic or industrial waste of a liquid nature and any pipes which convey wastewater to a treatment plant.

(32) "Residential unit" means a structure used primarily as housing and generating wastewater that includes but is not limited to human waste, kitchen waste, domestic wash water and bathwater. If there is located within or upon the same property as a residential unit any process, commercial activity or any other activity that generates wastewater not included in this definition, such wastewater shall not be classified as domestic wastewater.

(33) "Significant industrial user" means any industrial user who:

(a) Is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or

(b) A user that:

(i) Discharges twenty five thousand (25,000) gallons or more per average workday of process wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewater;

(ii) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; or

(iii) Is designated by the manager as having the reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement in accordance with 40 CFR 403.8(t)(6).

(34) "Significant noncompliance" means a status or condition existing if an industrial user's discharge meets one or more of the following criteria:

(a) Chronic violation of wastewater discharge limits, defined as those in which sixty six percent (66%) or more of all measurements taken during a six (6) month period exceed by any magnitude the daily maximum limit or the average limit for the same pollutant parameter.

(b) Technical review criteria (TRC) violations, defined as those in which thirty three percent (33%) or more of all measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC. (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH.)

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the manager determines has caused, alone or in combination with other discharges, interference or pass through or endangers the health of POTW personnel or the general public.

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(I)(vi)(B) 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 thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations which the manager determines will adversely affect the operation or implementation of the local pretreatment program (40 CFR 403.8(f)(2)(vii)).

(35) "Sludge" means solid, semisolid or liquid residue generated during treatment of domestic or industrial sewage in a treatment works.

(36) "Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

(37) "Stormwater" means any flow of water resulting from any form of precipitation.

(38) "Suspended solids" or "total suspended solids (TSS)" means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid and which is removable by laboratory filtering by approved procedures according to 40 CFR 136.

(39) "Treatment plant" means that portion of a POTW designed to treat wastewater.

(40) "User" means any person who contributes, causes or allows the contribution of wastewater into the POTW.

(41) "Wastewater" means industrial or domestic liquid waste from dwellings, commercial buildings, industrial or manufacturing facilities and institutions, together with any groundwater, surface water or stormwater that may be present, whether treated or untreated, which is contributed to or allowed to enter the POTW.

(42) "Wastewater discharge permit" means a control document issued by the manager authorizing conditional discharge of pollutants into the POTW.

(43) "Waters of the state" means any and all waters, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon this state or any portion thereof except those bodies of water confined to and retained within the limits of private property in a single ownership which do not combine or effect a junction with natural surface or underground waters. (Ord. #98-2012, April 2013)

18-102. Abbreviations. (1) The following abbreviations, when used in title 18, shall have the meanings designated:

- (a) BOD: Biochemical oxygen demand.
- (b) CFR: Code of Federal Regulations.
- (c) COD: Chemical oxygen demand.
- (d) EPA: U.S. Environmental Protection Agency.
- (e) mg/l: Milligrams per liter.
- (f) NPDES: National Pollutant Discharge Elimination System.
- (g) POTW: Publicly owned treatment works.
- (h) RCRA: Resource Conservation and Recovery Act.
- (i) SIC: Standard industrial classification.
- (j) TSS: Total suspended solids.
- (k) USC: United States Code (Ord. #98-2012, April 2013)

18-103. Purpose and policy. (1) Title 18 sets forth uniform requirements for users of the POTW and enables the town to comply with all

applicable state and federal laws, including the Clean Water Act (33 USC 1251 *et seq.*), and general pretreatment regulations set out in 40 CFR 403.

(2) Title 18 shall apply to all users of the POTW, whether located inside the town or outside the town. Title 18 authorizes issuance of wastewater discharge permits; provides for monitoring, compliance, recordkeeping, pretreatment and enforcement; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established title 18.

(3) The objectives of title 18 are to:

(a) Prevent the introduction of pollutants into the POTW that will interfere with its operation;

(b) Prevent the introduction of pollutants into the POTW that will pass through inadequately treated into receiving waters or otherwise be incompatible with the POTW;

(c) Protect the POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(d) Promote reuse and recycling of industrial wastewater and sludge from the POTW;

(e) Provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and

(f) Enable the town to comply with any applicable national pollutant discharge elimination system permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject. (Ord. #98-2012, April 2013)

18-104. Retention of records. (1) All records and reports required by title 18 shall be retained for a minimum of three (3) years and shall be made available for inspection and copying by the manager or appropriate state or federal agencies. This period of retention shall be extended during the course of any unresolved litigation regarding the user or when requested by the manager or appropriate state or federal agencies. (Ord. #98-2012, April 2013)

18-105. Time of report filing. (1) Under title 18, written reports shall be deemed to have been submitted on the date of receipt by the manager. (Ord. #98-2012, April 2013)

CHAPTER 2

ADMINISTRATION AND ENFORCEMENT

SECTION

- 18-201. Duties and authority of the manager.
- 18-202. Public utilities board.
- 18-203. Duties and authority of Public utilities board.
- 18-204. Remedies nonexclusive.
- 18-205. Publication of violations.
- 18-206. Adoption of enforcement response plan.
- 18-207. Notification of violation.
- 18-208. Consent orders.
- 18-209. Show cause hearing.
- 18-210. Compliance orders.
- 18-211. Cease and desist orders.
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- 18-213. Termination of discharge.
- 18-214. Method of assessment.
- 18-215. Assessment for noncompliance with permits or orders.
- 18-216. Civil penalties.
- 18-217. Performance bonds.
- 18-218. Financial assurance.
- 18-219. Water supply severance.
- 18-220. Injunctive relief.
- 18-221. Appeals to public utilities board.
- 18-222. Additional stay.
- 18-223. Judicial review.

18-201. Duties and authority of the manager. (1) Except as otherwise provided in title 18, the chairman of the public utilities board shall administer, implement and enforce title 18 by and through the public utilities board.

(a) The manager shall have the following specific powers, duties and responsibilities which may be delegated by the manager to other town personnel:

(i) Administer and enforce a pretreatment program in accordance with 40 CFR 403, federal pretreatment program requirements, *Tennessee Code Annotated*, §§ 69-3-123--69-3-129, and title 18;

(ii) Develop and implement a uniform enforcement response plan;

(iii) Recommend a schedule of civil penalties for violations of title 18;

- (iv) Maintain all records required by title 18, chapters 1 through 9; and
- (v) Issue emergency orders.
- (b) The manager shall have the following powers, duties and responsibilities, which shall not be delegated:
 - (i) Issue, modify or revoke permits and exceptions, subject to rights of appeal set out in title 18;
 - (ii) Issue notices of violation whenever it is found that a user has violated or is violating any permit requirement, order or any section of title 18. Such notice of violation may require submittal of a plan of correction by the user;
 - (iii) Sign and issue consent orders ensuring voluntary compliance, including necessary remedial or preventive action, according to a fixed time schedule;
 - (iv) Issue compliance orders;
 - (v) Conduct show cause hearings to review facts of alleged violations in order to determine and pursue any appropriate enforcement remedy;
 - (vi) Levy civil penalties for violation of title 18, for damages to the POTW or for injury to POTW personnel; and
 - (vii) Terminate water service, sewer service or both, in conformance with title 18.
- (c) In the absence or incapacity of the manager and in an emergency, the mayor of the town shall assume all duties and responsibilities of the manager unless the manager shall have previously appointed a person to serve in his stead. (Ord. #98-2012, April 2013)

18-202. Public utilities board. (1) There is created and established, pursuant to Tennessee Code Annotated, § 69-3-123 *et seq.*, the public utilities board, referred to in title 18 as "utilities board," which shall be composed of five (5) members as follows:

- (a) Board appointment. The board shall consist of five (5) members, who shall have custody, administration, operation, maintenance, and control of the sewer system. All members shall be property holders, who are and have been residents of the town for not less than one (1) year next preceding the date of appointment. One member of the board shall also be a member of the board of mayor and aldermen and such member's term shall never extend beyond his term of office on such governing body of the town. All members of the board shall be appointed by the mayor subject to the advice and consent of the board of mayor and aldermen.
- (b) Term of office. The original appointees are to serve from date of appointment for one (1), two (2), three (3), and four (4) years, respectively, from the next succeeding July 1. Each successor to a retired

member of the board shall be appointed for a term of five (5) years in the same manner, at the next regular meeting of the governing body of the town in June next preceding the expiration of the term of office of the retiring member. Appointments to complete unexpired terms of office, vacant for any cause, shall be made in the same manner as original appointments.

(c) Bond, oath, officers of board, meetings, and compensation.

(i) Each member shall qualify by taking the same oath of office as required for governing officials of the town. Within ten (10) days after appointment and qualification of members, the board shall hold a meeting to elect a chairman, and designate a secretary, and treasurer or a secretary-treasurer who need not be a member or members of the board and fix the amount of the surety bond which shall be required of such treasurer and shall fix his compensation. The board shall hold public meetings at least once per quarter, at such regular time and place as the board may determine. Changes in such time and place of meeting shall be made known to the public as far in advance as practicable. Except as otherwise expressly provided, the board shall establish its own rules of procedure.

(ii) All members of the board shall serve as such without compensation, but they shall be allowed necessary traveling and other expenses while engaged in the business of the board, including an allowance of not to exceed one hundred dollars (\$100.00) per month for attendance at meetings. Such expenses as well as the salaries of the secretary and treasurer, or secretary-treasurer, shall constitute a cost of operation and maintenance.

(d) Removal from office. Any member of the board may be removed from office for cause, but only after preferment of formal charges and trial before a court of proper jurisdiction. Charges may be preferred by resolution of the governing body of the town by any member of the board, or by a petition signed by two percent (2%) or more, but not less than twenty-five (25) in number, of the owners of property served by the works.

(2) All utilities board members shall serve without pay or other compensation.

(3) The utilities board shall promulgate such procedural rules as may be deemed necessary in the interest of justice, fairness and impartiality.

(4) Manager is authorized and empowered to act as the designated representative of the board to make any and all decisions on behalf of the board subject to ratification by the board. (Ord. #98-2012, April 2013)

18-203. Duties and authority of public utilities board. The public utilities board shall have the power, duty and responsibility to:

- (1) Hear appeals from orders issued by the manager assessing penalties or damages, or revoking or modifying permits;
- (2) Affirm, modify or revoke such actions or orders of the manager;
- (3) Issue notices of appeals and subpoenas requiring attendance of witnesses and the production of evidence;
- (4) Administer oaths and examine witnesses;
- (5) Take such testimony as the utilities board deems necessary; and
- (6) Hear appeals of applicants or users for the purpose of reviewing the denial of a permit or imposition of terms or conditions in permits or any exceptions granted by the manager. (Ord. #98-2012, April 2013)

18-204. Remedies nonexclusive. The remedies provided for in title 18 are not exclusive, and the manager may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan. However, the manager may take other action against any user when the circumstances warrant. Further, the manager is empowered to take more than one enforcement action against any noncompliant user. (Ord. #98-2012, April 2013)

18-205. Publication of violations. (1) The manager shall cause to be published annually, in the largest daily newspaper serving the town, a list of users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.

(2) If any published violation has been appealed by the user and that appeal has not been resolved, the published notice shall so indicate. (Ord. #98-2012, April 2013)

18-206. Adoption of enforcement response plan. (1) Under title 18, an enforcement response plan, including a schedule of civil penalties which may be assessed for certain specific violations or categories of violations, shall be established by resolution of the board of mayor and aldermen. Any civil penalty assessed to a violator pursuant to this section may be in addition to any other penalty assessed by a state or federal authority. (Ord. #98-2012, April 2013)

18-207. Notification of violation. (1) When the manager finds that a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, the manager may serve upon that user a written notice of violation. Within thirty (30) days of the receipt of this notice, a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by

the user to the manager. 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 shall limit the authority of the manager to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) Any notice or order issued pursuant to title 18 shall also contain notification to the violator of his right of appeal to the utilities board or the right of appeal to the chancery court. (Ord. #98-2012, April 2013)

18-208. Consent orders. The manager may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified in the document. Such documents shall have the same force and effect as orders issued pursuant to § 18-223 and shall be judicially enforceable. (Ord. #98-2012, April 2013)

18-209. Show cause hearing. The manager may order a user who has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement to appear before the manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against or prerequisite for taking any other action against the user, but shall be a prerequisite for issuing any compliance order, cease or desist order, termination of service or assessment of civil penalties, except as provided by § 18-212. (Ord. #98-2012, April 2013)

18-210. Compliance orders. When the manager finds that a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, the manager may issue 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 time provided, sewer service may be discontinued upon thirty (30) days' written notice, unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants

discharged to the POTW. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against or a prerequisite for taking any other action against the user. (Ord. #98-2012, April 2013)

18-211. Cease and desist orders. When the manager finds that a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement or that the user's past violations are likely to recur, the manager may issue an order to the user directing it to cease and desist all such violations and directing the user to immediately comply with all requirements and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge. Issuance of a cease and desist order shall not be a bar against or a prerequisite for taking any other action against the user. (Ord. #98-2012, April 2013)

18-212. Emergency suspensions. (1) Under title 18, if the manager 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 POTW, the manager may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the manager deems necessary to meet the emergency.

(2) Any user notified of a suspension of the discharge shall immediately eliminate the contribution. If a user fails to immediately comply voluntarily with the suspension order, the manager may take such steps as deemed necessary, including immediate severance of the sewer connection. The manager may allow the user to recommence the discharge when the user has demonstrated to the satisfaction of the manager that the period of endangerment has passed, unless the termination proceedings in § 18-213 are initiated against the user.

(3) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the manager prior to the date of any show cause or termination hearing under §§ 18-209 or 18-213.

(4) Nothing in title 18 shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(5) Any user whose discharge is suspended pursuant to this section, on petition to the utilities board, shall be afforded a hearing as soon as possible,

but in no case shall such hearing be held later than three (3) working days from the receipt of such a petition by the manager. (Ord. #98-2012, April 2013)

18-213. Termination of discharge. (1) Any user who violates the following conditions is subject to discharge termination:

- (a) Violation of wastewater discharge permit conditions;
- (b) Failure to accurately report the wastewater constituents and characteristics of the 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 title 18, chapter 5; or
- (f) Failure to pay sewer user charges, administrative penalties, inspection fees or any other fee or charge authorized in title 18.

(2) Such user will be notified of the proposed termination of the discharge and will be offered an opportunity to show cause under § 18-209 why the proposed action should not be taken. Exercise of this option by the manager shall not be a bar to or a prerequisite for taking any other action against the user. (Ord. #98-2012, April 2013)

18-214. Method of assessment. Under title 18, civil penalties shall be assessed in the following manner:

(1) The manager may issue an assessment against any person responsible for the violation.

(2) Any person against whom an assessment has been issued may secure a review of the assessment by filing with the manager a written petition setting forth the grounds and reasons for his objections and asking for a hearing on the matter before the utilities board. If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the user shall be deemed to have consented to the assessment and it shall become final.

(3) If any assessment becomes final because of a person's failure to appeal the manager's assessment, the manager 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 such assessment as a confession of judgment in the amount of the assessment. Upon final order, if payment is not made the manager may terminate water service.

(4) In assessing civil penalties the manager shall consider the following factors:

- (a) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

- (b) Damages to the POTW, including compensation for the damage or destruction of the facilities of the POTW, and also including any penalties, costs and attorney's fees incurred by the town as the result of the activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;
- (c) Cause of the discharge or violation;
- (d) The severity of the discharge and its effect upon the POTW and upon the quality and quantity of the receiving waters;
- (e) Effectiveness of action taken by the violator to provide a remedy;
- (f) The technical and economic reasonableness of reducing or eliminating the discharge; and
- (g) The economic benefit gained by the violator. (Ord. #98-2012, April 2013)

18-215. Assessment for noncompliance with permits or orders.

- (1) The manager may assess any polluter or violator for damages to the town resulting from any person's pollution or violation, failure or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or any part of title 18.
- (2) If an appeal from such assessment is not made to the utilities board by the violator within thirty (30) days of notification of such assessment, he shall be deemed to have consented to such assessment and it shall become final.
- (3) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or title 18, chapter 5; in removing, correcting and terminating any pollution; and also compensation for any actual damages to the POTW or to personnel employed therein caused by the violation. (Ord. #98-2012, April 2013)

18-216. Civil penalties. (1) A civil penalty up to the maximum permitted by the constitution and laws of the state, not to exceed the maximum authorized by the Constitution of Tennessee per day, may be assessed against any user who has violated or continues to violate any section of title 18 or any of the following:

- (a) A wastewater discharge permit;
- (b) Any valid order issued under title 18;
- (c) Any pretreatment standard or requirement;
- (d) Any terms or conditions of a permit issued pursuant to the pretreatment program;
- (e) Failing to complete a filing requirement of the pretreatment program;
- (f) Failing to allow entry, inspection or monitoring; or violates reporting requirements;

(g) Failing to pay user or cost recovery charges imposed by the pretreatment program; or

(h) Violation of a final determination or order of the utilities board or manager.

(2) The manager may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement, including sampling and monitoring expenses, and the cost of any actual damages incurred by the town.

(3) In determining the amount of civil liability, account shall be taken of all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor provided by law. (Ord. #98-2012, April 2013)

18-217. Performance bonds. The manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any section of title 18, a previous wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the town, in a sum not to exceed a value determined by the manager to be necessary to achieve consistent compliance. (Ord. #98-2012, April 2013)

18-218. Financial assurance. The manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any section of title 18, a previous wastewater discharge permit, or order issued under title 18 or any other pretreatment standard or requirement, unless the user first submits proof that he has obtained financial assurances sufficient to restore or repair damage to the POTW caused by the discharge. (Ord. #98-2012, April 2013)

18-219. Water supply severance. Whenever a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, potable water service to the user may be severed. A user holding a valid wastewater discharge permit shall be given ten (10) days' written notice by certified mail prior to the severance of the water supply. Severance of water service for all other users shall be in conformance with § 18-901. Service will only recommence, at the user's expense, after the user has satisfactorily demonstrated ability to comply with title 18. (Ord. #98-2012, April 2013)

18-220. Injunctive relief. When the manager finds that a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, the manager may petition the appropriate court, through the town

attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by title 18 on activities of the user. The manager may also seek such other action as is appropriate for legal and equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action against a user. (Ord. #98-2012, April 2013)

18-221. Appeals to public utilities board. (1) Upon receipt of a written petition from an aggrieved user under title 18 but not less than fifteen (15) days after notice of a matter to be appealed, the manager shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition unless the manager and the petitioner agree to a postponement.

(2) An appeal to the utilities board shall be a de novo review.

(3) Hearings or rehearings before the utilities board shall be conducted in accordance with the following:

(a) A quorum of the utilities board shall be necessary to conduct a hearing.

(b) A verbatim record of the proceedings shall be taken, together with the findings of fact and conclusions of law. The transcript so recorded shall be made available to any party upon prepayment of a charge adequate to cover the costs of preparation.

(c) In connection with the hearing, subpoenas shall be issued 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 shall have jurisdiction, upon application of the utilities board or the manager, to issue an order requiring such person to appear and testify or produce evidence as the case may require, and any failure to obey such order of the court may be punished as contempt under law.

(d) On the basis of the evidence produced at the hearing, the utilities board shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the petitioner. The order so issued shall be issued no later than thirty (30) days following the close of the hearing.

(e) The decision of the utilities board shall become final and binding on all parties unless appealed as provided in § 18-223.

(4) Any person to whom an emergency order is directed pursuant to § 18-212 shall comply therewith immediately but on petition to the utilities

board shall be afforded a hearing not later than three (3) working days from the receipt of such a petition by the manager.

(5) The following shall not be applicable to emergency suspensions pursuant to § 18-212:

(a) If a written petition of appeal is filed by a user, the effective date of the matter properly appealed shall be stayed until a decision is announced by the utilities board; provided, however, that in no case shall such a stay exceed a period of ninety (90) days, except as provided in § 18-222, from the date of receipt of a written petition to the manager to appeal as set out in this section.

(b) If a continuance of a hearing before the utilities board is requested by a user, no additional time shall be added to the limitations of § 18-221(5)(c).

(c) If the utilities board is not be able, for good cause, to hold a hearing within the sixty (60) day limit, the stay shall be extended by the number of days such period is exceeded.

(d) If a continuance is requested by the town, the time of the stay shall be extended by the same number of days as the continuance. (Ord. #98-2012, April 2013)

18-222. Additional stay. The utilities board may grant an additional continuance and stay beyond that set out in § 18-221 upon the request of a user and upon the posting of an appeal bond payable to the town in a sum to be determined by the manager as necessary to protect the interests of the town. (Ord. #98-2012, April 2013)

18-223. Judicial review. Any aggrieved party may petition for review of any final order or judgment of the utilities board pursuant to Tennessee Code Annotated, § 27-9-101 *et seq.* (Ord. #98-2012, April 2013)

CHAPTER 3

GENERAL WASTEWATER DISPOSAL

SECTION

- 18-301. Requirements for proper wastewater disposal.
- 18-302. Physical connections to the public sewer.
- 18-303. Inspection of connections.
- 18-304. Maintenance of building sewers.
- 18-305. Prohibited discharges.
- 18-306. Restrictions on wastewater strength.

18-301. Requirements for proper wastewater disposal. (1) It shall be unlawful to discharge to any waters of the state any wastewater or other polluted water, except where suitable treatment has been provided in accordance with title 18.

(2) Except as provided in this section, it shall be unlawful to construct or maintain a private wastewater disposal system within the town.

(3) Except as provided in this section:

(a) the owner of any house, building or property used for human occupancy, employment, industry, recreation or other purposes located where sewers are available is required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with title 18 and the town plumbing code within ninety (90) days after the date of official notice to do so, provided that the sewer is within five hundred feet (500') of the structure and at a suitable elevation.

(b) Any residence, business or industrial establishment having sewers available for ninety days (90) shall be considered a user whether connected or not and shall be subject to paying all valid charges imposed by title 18 and appropriate fees as established by resolution of the board of mayor and aldermen.

(c) Sewer shall be considered available when the first floor of the building above or on ground level can be served by the sewer line in accordance with the board's rules and regulations or general practice and is within five hundred feet (500') of public sewer line.

(4) Where a sewer is not available, the building shall be connected to a private wastewater disposal system complying with title 18, chapter 4, and any requirements of the state.

(5) An industrial facility may discharge wastewater to the waters of the state, provided that it obtains an NPDES permit and meets all the requirements of the Federal Clean Water Act, the NPDES permit and any other applicable local, state or federal statutes and regulations. Such facility shall be

considered a user of the public sewers or the POTW only if it contributes, causes or permits the contribution of wastewater into the POTW.

(6) Every industrial user not holding an NPDES permit shall be required to connect to the POTW if a public sewer is available. (Ord. #98-2012, April 2013, as amended by Ord. #121-2015, Nov. 2015)

18-302. Physical connections to the public sewer. (1) All sanitary sewers and appurtenances to be connected to the POTW, whether located inside or outside the town limits, shall be installed in conformance with state specifications and specifications of title 18 then in effect. Upon completion and prior to acceptance by the board of mayor and aldermen, each project or addition shall be inspected and approved by the town to ensure compliance.

(2) No acceptance shall be made of sewers or sewer lines unless and until easements are provided for maintenance with the exclusive right to control the lines and appurtenances as set forth in the governing codes.

(a) The execution of a sewer system connection application and user/owner agreement, easement and lien shall be sufficient for any easement on the user's property.

(b) In the event a user shall desire to make their physical connection to the public sewer by means of an easement over the property of others, then such user shall at that user's sole expense, obtain all necessary easements to the town in a form acceptable to the town's attorney.

(i) Such easement or easements shall be for the sole purpose of connecting a specified user to the public sewer, and for no other user.

(ii) If any such physical connection to the public sewer is to be located within a dedicated easement for public utilities, the specific centerline must be approved by the town.

(3) No person shall fill, cover, uncover, make any connection to, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the town. The owner, at such time as sewer service becomes available under § 18-301 to any property served by a private wastewater disposal system, shall obtain a permit and make a direct connection to the public sewer within thirty (30) days thereafter. In the case of unimproved property to which sewer service becomes available, the owner may obtain a permit within thirty (30) days thereafter; or, the owner of such property may obtain a permit at the same time as a building permit is issued for the property and make a direct connection to the public sewer prior to occupancy of the improvement. The connection fee must be paid in full prior to the permit being issued; however, in lieu of payment in full of the system user charge, the owner/occupant of a residence, upon proof of acceptable credit, may be allowed to enter into a promissory note for the full payment of same but in no event shall

any such promissory note be entered into without said promissory note being secured by a lien on the property serviced by said sewer.

(4) All costs and expenses incident to the installation, connection and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The manager shall assess a charge against the user for work required to repair damages and add such charge to the user's sewer service charge.

(5) Building sewers shall conform to all applicable town sewer specifications on file with the Tennessee Department of Environment and Conservation.

(6) Existing building sewers may be used in connection with new buildings only when they are found upon examination and testing by the town to meet all requirements of title 18. All others shall be sealed to the specifications of the line supervisor.

(7) No person shall connect roof downpours, exterior foundation drains, areaway drains or any other drain used exclusively for the carrying away of precipitation, groundwater or surface water runoff to a building sewer which is connected directly or indirectly to the POTW, unless specifically authorized by the manager. (Ord. #98-2012, April 2013, as amended by Ord. #121-2015, Nov. 2015)

18-303. Inspection of connections. All connections from the building to the public sewer line shall be inspected by the town to ensure compliance with title 18 and all building code requirements. (Ord. #98-2012, April 2013)

18-304. Maintenance of building sewers. Each individual user of the POTW shall be entirely responsible for maintenance of the building sewer. The maintenance shall include repair or replacement as deemed necessary by the town. (Ord. #98-2012, April 2013)

18-305. Prohibited discharges. (1) General prohibitions. No user shall introduce or cause or allow to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. This subsection shall apply to all users of the POTW, whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(2) No person shall discharge or cause to be discharged into the POTW any waste which contains any of the following:

(a) Unpolluted water. Unpolluted water, such as storm water, which will increase the hydraulic load on the public sanitary sewer system.

(b) Improperly shredded garbage. Wastewater containing garbage that has not been ground to such a degree that it will be carried

freely in suspension under flow conditions normally prevailing in the public sanitary sewer system.

(c) Solid or viscous wastes. Wastewater containing materials, such as oil or grease, whether animal, vegetable, or petroleum based, which may solidify or become viscous so that it will or may cause obstruction to the flow in a sewer line, or other interference with the proper operation of the public sanitary sewer system.

(d) Discolored materials. Wastewater with an objectionable color not removable by the treatment process.

(e) Thermal discharges. Wastewater which is heated to such a temperature as will or may inhibit biological activity in or cause damage to the public sanitary sewer system.

(f) Odorous materials. Wastewater which alone or in combination with other substances normally found in sewerage will or may result in the release of noxious odors above what is normal for domestic sewerage.

(g) Human hazards. Wastewater which will or may cause a hazard to human life or create a public nuisance.

(h) Noxious materials. Wastewater containing noxious or malodorous liquids, solids or gases which, either singly, or by interaction with other wastes, are capable of creating a public nuisance, hazard to life, noxious odors or are, or may be sufficient to prevent entry into a sewer for its maintenance or repair.

(i) Corrosive wastes. Wastewater containing materials which will or may cause corrosion or deterioration of the public sanitary sewer system.

(j) Explosive mixtures. Liquids, solids or gases which by reason of their nature or quantity, are, or may be, sufficient to cause a fire or explosion hazard or be injurious in any other way to the public sanitary sewer system or its operation.

(k) Toxic substances. Any toxic substance, chemical element or compound which may interfere with the biological processes or efficiency of the public sanitary sewer system or that will pass through the public sanitary sewer system in concentrations which could cause the public sanitary sewer system to exceed its NPDES permit or pass through limits.

(l) Radioactive wastes. Radioactive wastes or isotopes which will or may cause damage or hazards to the public sanitary sewer system or personnel operation or maintaining the system.

(m) Trucked wastes. Any trucked or otherwise hauled waste.

(n) Excessive discharge waste. Wastewater at a flow rate which is excessive relative to the capacity of the public sanitary sewer system or which could cause a treatment process upset or subsequent loss of treatment efficiency; or wastewater containing such concentrations or

quantities of pollutants that their introduction into the public sanitary sewer system over a relatively short period of time (sometimes referred to as "slug" discharges) could cause a treatment process upset or subsequent loss of treatment efficiency.

(3) Not to be discharged. Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. (Ord. #98-2012, April 2013)

18-306. Restrictions on wastewater strength. No person shall discharge, convey, permit or allow to be discharged or conveyed to the POTW any wastewater containing pollutants of such character or quantity as will:

(1) Not be susceptible or amenable to treatment or reduction by the wastewater treatment process employed by the POTW, or is susceptible or amenable to treatment or reduction only to such a degree that the POTW effluent cannot meet the requirements of other governmental agencies having jurisdiction over discharge to the receiving waters;

(2) Interfere with the process or efficiency of the POTW;

(3) Constitute a hazard to human or animal life or to the stream or water course receiving the POTW effluent;

(4) Violate pretreatment standards;

(5) Cause the POTW to violate its NPDES permit, pass through limits or applicable receiving water standards; or,

(6) Otherwise exceed the requirements and limitations imposed by the design capacity and effluent standards of the POTW; or the most restrictive user discharge restrictions and plant protection criteria or any other applicable state or federal law, regulation or guideline, including, but not limited to "Pretreatment of Pollutants into Publicly Owned Treatment Works," United States Environmental Protection Agency Federal Guidelines, October, 1973, or its current edition.

Where requirements and limitations imposed by either the Tennessee Department of Environment and Conservation or the United States Environmental Protection Agency are more stringent than the requirements and limitations imposed by the other, the most restrictive requirements and limitations shall apply. (Ord. #98-2012, April 2013)

CHAPTER 4

PRIVATE WASTEWATER DISPOSAL SYSTEMS AND HOLDING TANKS

SECTION

18-401. Availability of system.

18-402. Requirements for private domestic systems.

18-403. Holding tank waste disposal.

18-401. Availability of system. (1) Where the POTW is not available under § 18-301, the building sewer shall be connected to a private wastewater disposal system complying with this chapter.

(2) A private pumping system will be provided if any residence, office, recreational facility or other establishment used for human occupancy is below an elevation to obtain proper flow through the building sewer, unless an exception is granted by the manager.

(3) When a public sewer becomes available, connection shall be made to the sewer within ninety (90) days after date of official notice to do so, and any septic tank or other private disposal facility shall be abandoned. (Ord. #98-2012, April 2013)

18-402. Requirements for private domestic systems. (1) Private domestic wastewater disposal systems shall not be constructed within the town until a letter is obtained from the manager stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No letter shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the state.

(2) Before commencement of construction of a private wastewater disposal system, the owner shall obtain a written permit from the appropriate state agency.

(3) Private wastewater disposal systems shall not be placed in operation until the installation is approved by the state. The work may be inspected at any stage of construction, and in any event the owner shall notify the town when the work is ready for final inspection and before any underground portions are covered.

(4) The type, capacity, location and layout of a private wastewater disposal system shall comply with all recommendations of the appropriate state agency. No septic tanks or cesspools shall be permitted to discharge to the waters of the state except as specifically permitted for the appropriate system.

(5) The owner shall operate and maintain the private wastewater disposal facility in a sanitary manner at all times, at the owner's expense.

(6) No part of this chapter shall be construed to interfere with any additional requirements that may be imposed by the state. (Ord. #98-2012, April 2013)

18-403. Holding tank waste disposal. (1) Permit. No person shall clean out, drain or flush any septic tank or any other type of wastewater or excreta disposal system within the town unless such person obtains a permit from the manager to perform such acts or services. Any person desiring a permit to perform such services shall file an application on the prescribed form. Upon such application, a permit shall be issued by the manager when the conditions of this chapter have been met, provided the manager is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. The manager may require domestic septic tank waste haulers to obtain wastewater discharge permits.

(2) Fees. For each permit issued under this section, an annual fee shall be paid as established by resolution of the board of mayor and aldermen.

(3) Designated disposal locations. The manager shall designate approved locations for the emptying and cleaning of all equipment used in the performance of the services rendered as provided for, and it shall be a violation for any person to empty or clean such equipment at any place other than a place so designated.

(4) Revocation of permit. Failure to comply with all sections of title 18 shall be sufficient cause for the revocation of such permit by the manager. (Ord. #98-2012, April 2013)

CHAPTER 5

PRETREATMENT

SECTION

- 18-501. National categorical pretreatment standards.
- 18-502. Pretreatment facilities.
- 18-503. Additional pretreatment measures.
- 18-504. Dilution.
- 18-505. New sources.

18-501. National categorical pretreatment standards. The categorical pretreatment standards found at 40 CFR 405 through 471 are incorporated by reference, the same as if copied verbatim in this section. (Ord. #98-2012, April 2013)

18-502. Pretreatment facilities. Users shall provide wastewater pretreatment as necessary to comply with § 18-501 and shall achieve compliance with all applicable categorical pretreatment standards and local limits within the time limitations specified by EPA, the state or the manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the town for review and shall be acceptable to the town before such facilities are constructed. Review of such plans and operating procedures shall in no way relieve the user of the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the town under title 18. (Ord. #98-2012, April 2013)

18-503. Additional pretreatment measures. Whenever deemed necessary pursuant to title 18, the manager may require a user to restrict the discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and consolidate points of discharge, separate sewage waste streams from industrial waste streams and such other conditions as may be necessary to protect the POTW and determine the user's compliance with requirements of title 18. (Ord. #98-2012, April 2013)

18-504. Dilution. Under title 18, no user shall ever increase the volume of process water or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate pretreatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The manager may impose mass limitations on users who use dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate. (Ord. #98-2012, April 2013)

18-505. New sources. New sources shall install and have in operating condition, and shall be operating, all pretreatment facilities required to meet applicable pretreatment standards before beginning to discharge waste water to the POTW. New sources must meet all applicable pretreatment standards within ninety (90) days of the beginning of discharge. (Ord. #98-2012, April 2013)

CHAPTER 6

COMPLIANCE MONITORING

SECTION

18-601. Right of entry and inspection.

18-602. Monitoring and sampling facilities.

18-603. Search warrants.

18-601. Right of entry and inspection. (1) The manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of title 18 and any wastewater discharge permit or order issued under title 18. Users shall allow the manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties required by title 18.

(2) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the manager will be permitted to enter without delay for the purposes of performing specific responsibilities.

(3) The manager shall have the right to set up on the user's property or require installation of such devices as are necessary to conduct sampling and metering of the user's operations.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the user at the written or verbal request of the manager and shall not be replaced. The costs of clearing such access shall be borne by the user.

(5) Unreasonable delays in allowing the manager access to the user's premises shall be a violation of title 18.

(6) The manager shall at all times, while upon the user's premises, observe and comply with all safety and security measures of the facility. (Ord. #98-2012, April 2013)

18-602. Monitoring and sampling facilities. (1) The installation of a monitoring facility may be required to provide suitable monitoring facilities: The purpose of the facility is to enable inspection, sampling and flow measurement of the wastewater produced by a user.

(2) Monitoring facilities shall be located on the user's premises outside of any building unless an exception is approved by the manager in writing.

(3) The manager may require separate monitoring facilities to be installed for each source of discharge of a single user.

(4) The monitoring facility shall be a manhole or other suitable facility approved by the manager and shall be constructed and maintained at the user's expense.

(5) If sampling or metering equipment is also required by the manager, it shall be provided and installed at the user's expense. Such sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. There shall be ample room in or near all monitoring facilities to allow accurate sampling and preparation of samples for analysis.

(6) All monitoring facilities shall be constructed and maintained at the user's expense in accordance with the manager's requirements and all applicable local building codes. Construction must be completed not later than one hundred eighty (180) days after permit approval, unless an extension is granted by the manager.

(7) All devices used to measure wastewater flow and quality shall be calibrated not less than every three (3) months to ensure accuracy. (Ord. #98-2012, April 2013)

18-603. Search warrants. If the manager has been refused reasonable access to a building, structure or property or any part thereof and is able to demonstrate probable cause to believe that there may be a violation of title 18 or that there is a need to inspect or sample as part of a routine inspection and sampling program of the town designed to verify compliance with title 18 or any permit or order issued under title 18 or to protect the overall public health, safety and welfare of the community, the manager may seek issuance of a search warrant from the appropriate court. (Ord. #98-2012, April 2013)

CHAPTER 7

FEES AND BILLING

SECTION

18-701. Purpose.

18-702. Authorization to establish charges and fees.

18-703. Inspection fees and tap-on fees.

18-704. Sewer use charges.

18-705. Billing.

18-706. Severe hardship deferral provisions.

18-701. Purpose. The purpose of this chapter is to provide for equitable recovery of costs from users of the POTW, including costs of operation, maintenance, administration, bond service, inspection and monitoring, testing, capital improvements, depreciation and equitable cost recovery of EPA administered federal wastewater grants. (Ord. #98-2012, April 2013)

18-702. Authorization to establish charges and fees. (1) The board of mayor and aldermen may adopt by resolution reasonable charges and fees which shall include but not be limited to:

- (a) Inspection fees and tapping fees;
- (b) Sewer user charges;
- (c) Surcharge fees;
- (d) Wastewater discharge permit fees, including the cost of processing such applications;
- (e) Monitoring, inspection and surveillance fees which shall include the cost of collection and analyzing a user's discharge and reviewing monitoring reports submitted by users;
- (f) Fees for reviewing and responding to accidental discharges;
- (g) Fees for filing appeals, including but not limited to attorney's fees and enforcement fees; and
- (h) Such other fees as may be deemed necessary from time to time to carry out the requirements of title 18.

(2) These fees relate solely to the matters covered by title 18 and are separate from all other fees, fines and penalties the town is authorized to levy. (Ord. #98-2012, April 2013)

18-703. Inspection fees and tap-on fees. (1) The board of mayor and aldermen may provide for extension of sewer services by means other than improvement districts and shall, by resolution, establish a schedule of tap-on fees including but not limited to the following categories of use:

- (a) Existing residences and row houses with existing septic tanks;

(b) Additional existing units on same lot or parcel of land with existing residence and connected to the same sewer tap;

(c) New residences and row houses;

(d) New residences located in subdivisions, planned residential developments and multifamily projects developed under regulations governing subdivision of land of the regional planning commission in which adequate and proper sewer lines constructed by the developer in conformity with applicable statutes of the state and ordinances of the town pertaining to sanitation have been constructed as part of a private subdivision development, specifically providing for an inside municipal corporate boundary rate and an outside municipal corporate boundary rate;

(e) Small commercial user (i.e., service stations, office buildings, warehouses, etc.);

(f) Carwash for first bay and a fee for each additional bay thereafter;

(g) Existing multifamily complexes and new multifamily complexes specifically providing a fee for the first unit and a fee for each additional unit thereafter; and

(h) Factories and shopping centers; the fee to be based on a basis of ten thousand (10,000) square feet of floor space with a fee for each additional ten thousand (10,000) square feet of floor space over and above the base amount.

(2) A tap-on fee shall not be permitted in lieu of participation in an improvement district. Where a tap-on fee is paid prior to creation of an improvement district serving the property, it will be credited against the assessment of an improvement district later created serving the property. (Ord. #98-2012, April 2013)

18-704. Sewer use charges. All users shall pay a single unit charge expressed as dollars per one thousand (1,000) gallons of water purchased.

A minimum bill in the amount of twenty-five dollars (\$25.00), for residential, will be charged each month as long as the service(s) is available to the property, regardless of usage; and, an additional amount based upon the volume of water metered at the service address.

A minimum bill in the amount of thirty-two dollars (\$32.00), for commercial, will be charged each month as long as the service(s) is available to the property, regardless of usage; and, an additional amount based upon the volume of water metered at the service address.

There is an accounting fee in the amount of fifty dollars (\$50.00) payable with each application which is not transferrable to another name or service location. (Ord. #98-2012, April 2013, as amended by Ord. #179-2024, Nov. 2024)

18-705. Billing. (1) The billing of normal wastewater services shall consist of monthly billing in accordance with rates established by resolution of the board of mayor and aldermen.

(2) Any user connected to the sanitary sewer shall have water service either from the town or some other water utility system authorized to provide potable water by the state or such user shall, at his sole expense, install a sewage flow meter meeting the approval of the manager to measure the flow of sewage through such meter.

(3) Private wells or private water systems shall not be construed to constitute water utility systems authorized to provide potable water by the state. (Ord. #98-2012, April 2013)

18-706. Severe hardship deferral provisions. In order to protect especially vulnerable residents and property owners from unconscionable loss of access to sanitary sewer services during times of crisis and economic hardship, there is hereby established a hardship board whose purpose shall be to review applications submitted by elderly, seriously ill, disabled and other sewer system users who are experiencing extreme financial hardship or who have extenuating circumstances which make it unreasonably difficult to pay sewer user fees and charges, for the deferral or extension of a percentage (between ten percent (10%) and one hundred percent (100%)) of the user's fees and charges until payment in full is made by installment payments; until such time as the property is sold or transferred; or, until the user no longer qualifies for deferral or extension. The undeferred or extended portion of the fees and charges remains due and payable, as follows:

(1) The board of mayor and aldermen shall appoint up to seven (7) persons to act as a hardship board, who are willing to serve.

(2) The hardship board shall review applications for hardship determination in regard to the sewer tap-on fee, monthly sewer service charge, and any other fees or charges.

(3) An application form to be used in applying for a hardship determination shall be developed by the hardship board.

(4) The hardship board shall adopt a standard so as to make each hardship determination in a fair and uniform manner.

(5) The degree or amount of charge to be deferred by the hardship board shall be determined on an annual basis and must be renewed each year. If a hardship deferral is not renewed or if a user does not qualify for a deferral, then, all previously deferred amounts due and payable, being ultimately the liability of the user, must be paid and, if not paid, service may be discontinued or the amount may be referred to a collection agency or other collection action taken. (Ord. #108-2013, Jan. 2014)

CHAPTER 8

SEWER EXTENSION POLICY

SECTION

- 18-801. Sewer service extensions, trunk lines and service laterals.
- 18-802. System user fees.
- 18-803. Sewer trunk extension variances.

18-801. Sewer service extensions, main trunk lines and collector branch lines. (1) Public sanitary sewer service may be provided to areas within the corporate limits not presently served by the existing POTW in accordance with the policies set forth in this chapter. These policies shall govern any extension of the POTW from its existing terminus to the boundary of the property to be served, including main trunk line extensions or replacements to serve new residential subdivisions, new commercial development or undeveloped property, and collector branch line extensions to serve existing subdivisions or developments which are being expanded; as well as the construction of any sanitary sewer collection system within the interior of the property to be served. All connections to the POTW shall become the property of the town upon inspection and acceptance.

(a) Any person, firm, or corporation desiring an extension of POTW, hereinafter "developer," in addition to any other requirement imposed by another governmental agency having jurisdiction, shall:

(i) At their own expense, engage an engineer having knowledge of the standards of design, construction and materials required by the town; and obtain a determination from the town as to whether any special modification of their proposed extension of the POTW will be required, e.g. installing larger size pipe or additional collector branch lines to accommodate future growth, adding manholes or services or other changes. Main trunk lines shall always be extended to the farthest point or points upgrade within the property to be served so that the POTW, if need be, can continue uninterrupted. The board of mayor and aldermen may agree to share in the cost of any such required modifications pursuant to a formal resolution.

(ii) At their own expense, have detailed plans and specifications prepared for their proposed extension of the POTW in conformance with the standards of design, construction and materials required by the state and the regulations of the town, and submit such plans and specifications to the town for review and approval.

(iii) Obtain written approval of the plans and specifications from the town.

(iv) Secure bids from competent and reliable contractors for the furnishing of materials, labor, and services necessary for the construction of their proposed extension to the POTW; and, submit those bids to the town for review and approval prior to acceptance by the developer. All bids submitted to the town for review and approval shall include a provision:

(A) For inspection of actual construction by the town; including, but not limited to:

- (1) Vacuum test manholes;
- (2) Pressure test line;
- (3) Pull mandrel through line; and,

(B) For conducting pre-blast surveys and monitoring all blasts; and,

(C) For photography of existing lawns, driveways, and etc. prior to commencement of any ditching or excavation which would materially alter said lawns, driveways, etc.; and,

(D) For restoration of the affected surface to be done so as to nearly as practical restore the lawn and/or driveway to its original condition as soon as feasible, weather permitting; and,

(E) For sufficient performance bonds and adequate retainage;

(F) For penalties upon noncompliance; and,

(G) That any sewer line to be located within any paved street or right-of-way shall be restored -- as nearly as practical -- to its preconstruction condition and preferably re-paved after the completion of construction.

(v) Obtain all permits and easements necessary for the construction of their proposed extension to the sewerage collection system.

(vi) At their own expense, construct their proposed extension of the POTW in accordance with the plans and specifications in a good workmanlike manner and furnish all materials, labor and services therefor.

(A) Except that, where town determines that the proposed extension to the POTW can be constructed by its own forces, the town may allow the developer to deposit with the town the estimated cost of sewer construction, plus engineering and administrative cost.

(B) The town will then proceed to construct the sewer. If at any time the actual cost exceeds the amount deposited, the developer shall immediately, upon

notification, deposit sufficient additional funds to complete the work.

(vii) Furnish to the town evidence that all bills and charges for labor and materials and other services used in the construction have been paid.

(viii) Furnish to the town, the formal written certification of the developer's engineer that he has inspected the construction and has determined that it conforms to all approved plans and specifications.

(ix) Prior to placing their proposed extension of the POTW into service, have the construction inspected and approved by the town and "as-built record plans" of the construction provided to the town.

(x) When completed, transfer and convey by appropriate written instrument, their proposed extension of the POTW to the town free from all liens of every kind. Said instruments and/or deeds shall include such easements as necessary for ingress, egress, operation and maintenance.

(2) After the construction of the proposed extension of the POTW is inspected and approved by the town, and it is transferred and conveyed to the town free from all liens and encumbrances, and if the developer fulfills the requirements set forth above, then:

(a) The town will permit the proposed extension of the POTW to be connected to and incorporated into its existing POTW and will furnish public sanitary sewer service to each property within the property to be served in accordance with the town's rules and regulations governing same, and subject to such limitations as may exist because of the size, elevation and other engineering considerations of the trunks.

(b) The town will charge for public sanitary sewer service at the rates currently being charged other customers in similar locations.

(3) The extension of public sanitary sewer service to property that is not part of a new development established after the adoption of this policy, shall be financed by special assessment against all properties benefitted by such extension in accordance with applicable statutes authorizing the creation of Improvement Districts for this purpose.

(4) Public sanitary sewer service may only be extended outside of the existing corporate limits pursuant to a formal resolution of the board of mayor and aldermen expressly authorizing such extension and the reason therefore. (Ord. #98-2012, April 2013)

18-802. System user fee credits. (1) In the case of construction of any collector branch line within the interior of the property to be served, a system

user fee credit in the amount of one thousand two hundred fifty dollars (\$1,250.00) may be issued against the system user fee assessed upon each residential lot within the interior of the property to be served.

(2) In the case of construction of any main trunk line, a system user fee credit in the amount of seven hundred fifty dollars (\$750.00) may be issued against the system user fee assessed upon each residential lot, the total number of which system user fee credits shall be determined as follows.

(3) In order to calculate the number of system user fee credits to be issued on any main trunk line or any collector branch line extension to the POTW:

(a) The cost of the main trunk or collector branch line extension to the property, including the actual proven cost to the developer of engineering fees, easement acquisition cost and construction cost of the gravity portion of the line between the existing POTW and the boundary of the property to be served shall be determined by the public utilities board. This cost shall not include the cost of sewer lines within the property to be served or any pump stations or force mains.

(b) Then the cost of the main trunk or collector branch line extension to the property shall be divided by the amount of the respective system user fee credit, and the resulting number of system user fee credits may be used for residential lots within the interior of the property to be served.

(4) The system user fee credit, both the one thousand two hundred fifty dollars (\$1,250.00) credit for construction of any collector branch line within the interior of the property to be served, and, the seven hundred fifty dollars (\$750.00) credit for construction of a main trunk line extension to the POTW, shall each be evidenced by a certificate identifying the project and the property against which the system user fee credit may be taken. The town will endeavor to have the certificates redeemed before accepting system user fees for the property from other parties. The system user fee credit certificates shall expire five (5) years after their date of issue.

(5) Applications for individual services (sewer taps) will be accepted upon completion of construction, receipt of "record plans," receipt of waiver of lien from the contractor installing the sewer system, copies of permit approvals for operation from regulatory agencies, and proof that plumbing permits for the structures for which application is being made have been issued. (Ord. #98-2012, April 2013)

18-803. Main trunk line extension variances. Whenever the board of mayor and aldermen shall determine that it is to the best interest of the town and its citizens and taxpayers to construct a main trunk line extension without requiring strict compliance with the preceding sections, such extension may be constructed upon such terms and conditions as shall be approved by the board of mayor and aldermen. The authority to make a main trunk line extension

under the preceding section is permissive only and nothing contained therein shall be constructed as requiring the town to make such extensions or to furnish service to any person or persons. This policy governing sewer extensions shall not limit the town from participating in the cost of main trunk line extension when the application warrants consideration due to favorable return on investment. (Ord. #98-2012, April 2013)

CHAPTER 9

CONTRACT FOR SEWER BILLING, ETC.

SECTION

18-901. Contract with the Surgoinville Utility District of
Hawkins County, Tennessee.

18-902. Parties to be governed by contract.

18-901. Contract with the Surgoinville Utility District of Hawkins County, Tennessee. The Town of Surgoinville, Tennessee, by and through its public utilities board, will contract with the Surgoinville Utility District of Hawkins County, Tennessee to provide for the billing of the sewer bills from the town's wastewater system, for the disconnection of water service in the event of delinquent sewer, bills for the payment of these services, for the adjustment of sewer bills, for the repair of city streets used by the Surgoinville Utility District, and for the establishment of a formal relationship between the parties. (Ord. #98-2012, April 2013)

18-902. Parties to be governed by contract. The rights and obligations of the town and the Surgoinville Utility District shall be governed by a contract to be entered into between the parties , which contract is to be incorporated by reference the same as if fully set out herein.¹ (Ord. #98-2012, April 2013)

¹A copy of the contract shall be placed of record in the office of the recorder.

CHAPTER 10

UTILITY DISTRICTS¹

SECTION

18-1001. Minimum diameter of water mains.

18-1002. Maximum distance between fire hydrants.

18-1001. Minimum diameter of water mains. It shall be unlawful for any water main to be laid within the corporate limits by any public utility, utility district, or waterworks company which is less than six inches (6") in diameter by inside measurements. (2007 Code, § 18-101)

18-1002. Maximum distance between fire hydrants. It shall be unlawful for any public utility, utility district, or waterworks company to install or erect fire hydrants in the business districts of the municipality so that the distance from one fire hydrant to the next nearest fire hydrant exceeds five hundred feet (500') and in the residential districts of the municipality so that the distance from one fire hydrant exceeds one thousand feet (1,000'). (2007 Code, § 18-102)

¹Municipal code references

Building and utility codes: title 12

Cross connections: title 16.

Gas is furnished to the municipality and its inhabitants by the Hawkins County Gas Utility District of Hawkins County, Tennessee pursuant to a franchise granted by the municipality, dated November 7, 1960, a copy of which is of record in the recorder's office.

South Central Bell is authorized to use the public streets of the municipality for the purpose of erecting, constructing, maintaining, and operating telephone and telegraph lines pursuant to an ordinance dated May 6, 1963 and letter of acceptance dated June 27, 1963, which are of record in the recorder's office.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished by Holston Electric Cooperative.

19-101. To be furnished by Holston Electric Cooperative.

Electricity shall be provided to the Town of Surgoinsville and its inhabitants by the Holston Electric Cooperative. The rights, powers, duties, and obligations of the Town of Surgoinsville and its inhabitants, are stated in the agreements between the parties.¹ (2007 Code, § 19-101)

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

CHAPTER 2

GAS

SECTION

19-201. To be furnished by Hawkins County Gas Utility.

19-201. To be furnished by Hawkins County Gas Utility. Gas shall be provided to the Town of Surgoinsville and its inhabitants by the Hawkins County Gas Utility. The rights, powers, duties, and obligations of the Town of Surgoinsville and its inhabitants, are stated in the agreements between the parties.¹ (2007 Code, § 19-201)

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

TITLE 20**MISCELLANEOUS****CHAPTER**

1. FAIR HOUSING.
2. TOWN SEAL.

CHAPTER 1**FAIR HOUSING****SECTION**

- 20-101. Policy.
- 20-102. Definitions.
- 20-103. Unlawful practice.
- 20-104. Discrimination in the sale or rental of housing.
- 20-105. Discrimination in the financing of housing.
- 20-106. Discrimination in the provision of brokerage services.
- 20-107. Exemption.
- 20-108. Administration.
- 20-109. Education and conciliation.
- 20-110. Enforcement.
- 20-111. Investigations; subpoenas; giving of evidence.
- 20-112. Enforcement by private persons.

20-101. Policy. It is the policy of the Town of Surgoinville to provide, within constitutional limitations, for fair housing throughout the Community. (2007 Code, § 20-101)

20-102. Definitions. (1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale of lease for the construction or location thereon of any such building, structure, or portion thereof.

(2) "Family" includes a single individual.

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

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(5) "Discriminatory housing practice" means an act that is unlawful under §§ 20-104, 20-105 or 20-106. (2007 Code, § 20-102)

20-103. Unlawful practice. Subject to the provisions of § 20-107(2), the

prohibitions against discrimination in the sale or rental of housing set forth in § 20-104 shall apply to:

- (1) All dwellings except as exempted by subsection (2).
- (2) Nothing in § 20-104 shall apply to:
 - (a) Any single-family house sold or rented by an owner: Provided that such private individual owner does not own more than three such single-family houses at any one time: Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period: Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at one time. Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented:
 - (i) Without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and
 - (ii) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 20-104(3) of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer the title, or
 - (b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- (3) For the purposes of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:
 - (a) He has, within the preceding twelve (12) months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - (b) He has, within preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - (c) He is the owner of any dwelling or intended for occupancy by, or occupied by, five (5) or more families. (2007 Code, § 20-103)

20-104. Discrimination in the sale or rental of housing. As made applicable by

§ 20-103 and except as exempted by §§ 20-103(2) and 20-107 it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, familial status or disability.

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

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

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

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, familial status, or disability.

(6) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by that person if such modifications are necessary to afford that person full enjoyment of the premises.

(7) To refuse to make reasonable accommodations in rules, policies, practices, or service, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (2007 Code, § 20-104)

20-105. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status or disability of such person or of any person associated with him in the connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 20-103(2). (2007 Code, § 20-105)

20-106. Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms of conditions

of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial status or disability. (2007 Code, § 20-106)

20-107. Exemption. Nothing in this chapter shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status or disability. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its member. (2007 Code, § 20-107)

20-108. Administration. (1) The authority and responsibility for administering this act shall be in the mayor of the Town of Surgoinsville.

(2) The mayor may delegate any of these functions, duties, and powers to employees of the community or to boards of such employees, including functions, duties and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this chapter. The mayor shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the community, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the mayor to further such purposes. (2007 Code, § 20-108)

20-109. Education and conciliation. Immediately after the enactment of this chapter, the mayor shall commence such educational and conciliatory activities as will further the purposes of this chapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advise to work out programs of voluntary compliance and of enforcement. (2007 Code, § 20-109)

20-110. Enforcement. (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor. Complaints shall be in writing and shall contain such information and be in such form as the mayor requires. Upon receipt of such a complaint, the mayor shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (3), the mayor shall

investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the mayor decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by information methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the mayor who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year.

(2) A complaint under subsection (1) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the mayor, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(3) If within thirty days after a complaint is filed with the mayor, the mayor has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The mayor will assist in this filing.

(4) If the mayor has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complaint.

(6) Whenever an action filed by an individual shall come to trial, the mayor shall immediately terminate all efforts to obtain voluntary compliance. (2007 Code, § 20-110)

20-111. Investigations; subpoenas; giving of evidence. (1) In conducting an investigation, the mayor shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the mayor first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor may issue subpoenas to compel his access to or the production of such materials or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court of the district in which the investigation is taking place. The mayor may administer oaths.

(2) Upon written application to the mayor, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the mayor to the same extent and subject to the same limitations as subpoenas issued by the mayor himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(3) Witnesses summoned by subpoena of the mayor shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to the witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(4) Within five days after services of a subpoena upon any person, such person may petition the mayor to revoke or modify the subpoena. The mayor shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy or refusal to obey a subpoena, the mayor or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoenas or lawful order of the mayor shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the mayor, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the mayor pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year, or both.

(7) The Town of Surgoinsville attorney shall conduct all litigation in which the mayor participates as a party or as amicus pursuant to this chapter. (2007 Code, § 20-111)

20-112. Enforcement by private persons. (1) The rights granted by §§ 20-103, 20-104, 20-105 and 20-106 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought to this section or § 20-110(4) from time to time before bringing it to trial or renting dwellings; or

(2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(a) Participating, without discrimination on account of race, color, religion, sex, national origin, familial status or disability, in any of the activities, services, organizations or facilities; or

(b) Affording another person or class of persons opportunity or protection so to participate, or

(3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, national origin, familial status or disability, in any of the activities, services, organizations or facilities or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than one thousand dollars (\$1,000), or imprisoned not more than one year, or both; and, if bodily injury results, shall be fined not more than ten thousand dollars (\$10,000), or imprisoned not more than ten (10) years, or both; and, if death results, shall be subject to imprisonment for any term of years or for life. (2007 Code, § 20-112)

CHAPTER 2

TOWN SEAL

SECTION

20-201. Official town seal.

20-201. Official town seal. An official seal is hereby adopted and is described as follows:

The seal of the Town of Surgoinsville shall have on its outside a circle outline within which are the words, "Town of Surgoinsville," preceded and followed by a drawing of a single leaf of tobacco. Between the two (2) leaves and to appear at the physical bottom of the seal is the number 1815 signifying the date the town was created by the Tennessee Legislature. Within the proceeding is a circle formed by a rope of cloud symbols. Inside of this is a circle divided into four (4) quadrants. Within the four (4) quadrants are drawings showing the Tennessee flag flying from a flagpole; an airplane shown landing on an airport with the number twenty-five (25) marked on the runway surface; a scene showing a river being crossed by a ferry boat with a steam engine in the background; and a view of an old blacksmith shop with the blacksmith and his anvil in front of it. (2007 Code, § 20-201)

Appendix A

1. Campaign finance.

All candidates for the chief administrative office (mayor), any candidates who spend more than \$500, and candidates for other offices that pay at least \$100 a month are required to file campaign financial disclosure reports. Civil penalties of \$25 per day are authorized for late filings. Penalties up to the greater of \$10,000 or 15 percent of the amount in controversy may be levied for filings more than 35 days late. It is a Class E felony for a multicandidate political campaign committee with a prior assessment record to intentionally fail to file a required campaign financial report. Further, the treasurer of such a committee may be personally liable for any penalty levied by the Registry of Election Finance (T.C.A. § 2-10-101–118).

Contributions to political campaigns for municipal candidates are limited to:

- a. \$1,000 from any person (including corporations and other organizations);
- b. \$5,000 from a multicandidate political campaign committee;
- c. \$20,000 from the candidate;
- d. \$20,000 from a political party; and
- e. \$75,000 from multicandidate political campaign committees.

The Registry of Election Finance may impose a maximum penalty of \$10,000 or 115 percent of the amount of all contributions made or accepted in excess of these limits, whichever is greater (T.C.A. § 2-10-301–310).

Each candidate for local public office must prepare a report of contributions that includes the receipt date of each contribution and a political campaign committee's statement indicating the date of each expenditure (T.C.A. § 2-10-105, 107).

Candidates are prohibited from converting leftover campaign funds to personal use. The funds must be returned to contributors, put in the volunteer public education trust fund, or transferred to another political campaign fund, a political party, a charitable or civic organization, educational institution, or an organization described in 26 U.S.C. 170(c) (T.C.A. § 2-10-114).

2. Conflicts of Interest.

Municipal officers and employees are permitted to have an “indirect interest” in contracts with their municipality if the officers or employees publicly acknowledge their interest. An indirect interest is any interest that is not “direct,” except it includes a direct interest if the officer is the only supplier of

goods or services in a municipality. A “direct interest” is any contract with the official himself or with any business of which the official is the sole proprietor, a partner, or owner of the largest number of outstanding shares held by any individual or corporation. Except as noted, direct interests are absolutely prohibited (T.C.A. § 6-2-402, T.C.A. § 6-20-205, T.C.A. § 6-54-107–108, T.C.A. § 12-4-101–102).

3. Disclosure conflict of interests.

Conflict of interest disclosure reports by any candidate or appointee to a local public office are required under T.C.A. §§ 8-50-501 *et seq.* Detailed financial information is required, including the names of corporations or organizations in which the official or one immediate family member has an investment of over \$10,000 or 5 percent of the total capital. This must be filed no later than 30 days after the last day legally allowed for qualifying as a candidate. As long as an elected official holds office, he or she must file an amended statement with the Tennessee Ethics Commission or inform that office in writing that an amended statement is not necessary because nothing has changed. The amended statement must be filed no later than January 31 of each year (T.C.A. § 8-50-504).

4. Consulting fee prohibition for elected municipal officials.

Any member or member-elect of a municipal governing body is prohibited under T.C.A. § 2-10-124 from “knowingly” receiving any form of compensation for “consulting services” other than compensation paid by the state, county, or municipality. Violations are punishable as Class C felonies if the conduct constitutes bribery under T.C.A. § 39-16-102. Other violations are prosecuted as Class A misdemeanors. A conviction under either statute disqualifies the offender from holding any office under the laws or Constitution of the State of Tennessee.

“Consulting services” under T.C.A. § 2-10-122 means “services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to the municipality or county represented by that official.” “Consulting services” also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality represented by that official. “Consulting services” does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure;

"Compensation" does not include an "honorarium" under T.C.A. § 2-10-116, or certain gifts under T.C.A. § 3-6-305(b), which are defined and prohibited under those statutes.

The attorney general construes "Consulting services" to include advertising or other informational services that directly promote specific legislation or specifically target legislators or state executive officials. Advertising aimed at the general public that does not promote or otherwise attempt to influence specific legislative or administrative action is not prohibited. Op. Atty.Gen. No. 05-096, June 17, 2005.

5. Bribery offenses.

a. A person who is convicted of bribery of a public servant, as defined in T.C.A. § 39-16-102, or a public servant who is convicted of accepting a bribe under the statute, commits a Class B felony.

b. Under T.C.A. § 39-16-103, a person convicted of bribery is disqualified from ever holding office again in the state. Conviction while in office will not end the person's term of office under this statute, but a person may be removed from office pursuant to any law providing for removal or expulsion existing prior to the conviction.

c. A public servant who requests a pecuniary benefit for performing an act the person would have had to perform without the benefit or for a lesser fee, may be convicted of a Class E felony for solicitation of unlawful compensation under T.C.A. § 39-16-104.

d. A public servant convicted of "buying and selling in regard to offices" under T.C.A. § 39-16-105, may be found guilty of a Class C felony. Offenses under this statute relevant to public officials are selling, resigning, vacating, or refusing to qualify and enter upon the duties of the office for pecuniary gain, or entering into any kind of borrowing or selling for anything of value with regard to the office.

e. Exceptions to 1, 3, and 4, above include lawful contributions to political campaigns, and a "trivial benefit" that is "incidental to personal, professional, or business contacts" in which there is no danger of undermining an official's impartiality.

6. Official misconduct, official oppression, misuse of official information.

a. Public misconduct offenses under Tennessee Code Annotated § 39-16-401 through § 39-16-404 apply to officers, elected officials, employees,

candidates for nomination or election to public office, and persons performing a governmental function under claim of right even though not qualified to do so.

b. Official misconduct under Tennessee Code Annotated § 39-16-402 pertains to acts related to a public servant's office or employment committed with an intent to obtain a benefit or to harm another. Acts constituting an offense include the unauthorized exercise of official power, acts exceeding one's official power, failure to perform a duty required by law, and receiving a benefit not authorized by law. Offenses under this section constitute a Class E felony.

c. Under Tennessee Code Annotated § 39-16-403, "Official oppression," a public servant acting in an official capacity who intentionally arrests, detains, frisks, etc., or intentionally prevents another from enjoying a right or privilege commits a Class E felony.

d. Tennessee Code Annotated § 39-16-404 prohibits a public servant's use of information attained in an official capacity, to attain a benefit or aid another which has not been made public. Offenses under the section are Class B misdemeanors.

e. A public servant convicted for any of the offenses summarized in sections 2-4 above shall be removed from office or discharged from a position of employment, in addition to the criminal penalties provided for each offense. Additionally, an elected or appointed official is prohibited from holding another appointed or elected office for ten (10) years. At-will employees convicted will be discharged, but are not prohibited from working in public service for any specific period. Subsequent employment is left to the discretion of the hiring entity for those employees. Tennessee Code Annotated § 39-16-406.

7. Ouster law.

Some Tennessee city charters include ouster provisions, but the only general law procedure for removing elected officials from office is judicial ouster. Cities are entitled to use their municipal charter ouster provisions, or they may proceed under state law.

The judicial ouster procedure applies to all officers, including people holding any municipal "office of trust or profit." (Note that it must be an "office" filled by an "officer," distinguished from an "employee" holding a "position" that does not have the attributes of an "office.") The statute makes any officer subject to such removal "who shall knowingly or willfully misconduct himself in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall

engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude” (T.C.A. § 8-47-101).

T.C.A. § 8-47-122(b) allows the taxing of costs and attorney fees against the complainant in an ouster suit if the complaint subsequently is withdrawn or deemed meritless. Similarly, after a final judgment in an ouster suit, governments may order reimbursement of attorney fees to the officer targeted in a failed ouster attempt (T.C.A. § 8-47-121).

The local attorney general or city attorney has a legal “duty” to investigate a written allegation that an officer has been guilty of any of the mentioned offenses. If he or she finds that “there is reasonable cause for such complaint, he shall forthwith institute proceedings in the Circuit, Chancery, or Criminal Court of the proper county.” However, with respect to the city attorney, there may be an irreconcilable conflict between that duty and the city attorney’s duties to the city, the mayor, and the rules of professional responsibility governing attorneys. Also, an attorney general or city attorney may act on his or her own initiative without a formal complaint (T.C.A. § 8-47-101–102). The officer must be removed from office if found guilty (T.C.A. § 8-47-120).

ORDINANCE NO. 182-2025

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF SURGOINSVILLE.

WHEREAS some of the ordinances of the Town of Surgoinsville are obsolete, and

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

WHEREAS the Board of Mayor and Aldermen of the Town of Surgoinsville, 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 "Surgoinsville Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF SURGOINSVILLE, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the town 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 "Surgoinsville 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 town or authorizing the issuance of any bonds or other evidence of said town'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 town; any ordinance establishing a social security system or

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

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."¹

¹State law reference

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

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

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

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

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, March 10th, 2025.

Passed 2nd reading, April 14th, 2025.

Public hearing held on April 14th, 2025.

Merrell Smith
Mayor

Meagan Smith
Recorder

Passed First Reading this 10th day of March, 2025:

Motion By: Vice-Mayor Jarnigan

Second By: Alderman Mierek

	Ayes	Nays	Other
Alderman Bishop	✓		
Alderman Collier	✓		
Mayor Graham	✓		
Alderman Hoss			
Vice-Mayor Jarnigan	✓		absent
Alderman Mierek	✓		
Alderman Sandidge			absent
TOTAL			

Passed Second Reading this 14th day of April, 2025:

Motion By: Vice-Mayor Jarnigan

Second By: Alderman Hoss

	Ayes	Nays	Other
Alderman Bishop	✓		
Alderman Collier	✓		
Mayor Graham	✓		
Alderman Hoss	✓		
Vice-Mayor Jarnigan	✓		
Alderman Mierek			absent
Alderman Sandidge	✓		
TOTAL			

Ordinance Published this 18th day of April, 2025.