THE CHAPEL HILL

MUNICIPAL

CODE

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

April 2005

Change 1, July 9, 2012

TOWN OF CHAPEL HILL, TENNESSEE

MAYOR

Carl S. Cooper

ALDERMEN

Houston Bryant

Pam Elliott

Marion Joyce

Dorothy Morton

Tommy Lawrence, III

RECORDER

Dawn Lovins

PREFACE

The Chapel Hill Municipal Code contains the codification and revision of the ordinances of the Town of Chapel Hill, 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 city's ordinance book or the city recorder for a comprehensive and up to date review of the city's ordinances.

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).

(2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

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

The able assistance of Linda Dean, the MTAS Administrative Specialist, and Nancy Gibson, Program Resource Specialist, is gratefully acknowledged.

Steve Lobertini Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE TOWN CHARTER

SECTION 15. Ordinances and Resolutions: Procedures Required for <u>Passage</u>. (a) No bill shall become an ordinance without having passed on two (2) separate days by majority vote of the quorum of the Board, both of which shall not be at the same meeting; except no appropriation of money, or order involving it, or levy of taxes, shall be made unless the ordinance authorizing the same be passed on three (3) separate days by a majority of the entire Board. Separate days means separate meetings, not recessed meetings. A public hearing on an ordinance shall be advertised and held prior to final passage.

Ordinances shall be introduced in writing, and when passed, shall be signed by Mayor and attested by the Recorder, and incorporated in the minutes of the Board together with full recitals of their introduction and passage.

An Ordinance shall take effect fifteen (15) days after its final passage or at such time after fifteen (15) days if so specified in the ordinance. An emergency ordinance may take effect immediately after final passage provided it states that an emergency exists, the circumstances and reasons for the emergency, and sufficient detail to demonstrate that passage of the ordinance will abate the emergency.

Prior to final passage, the ordinance or caption and summary thereof may be published in a newspaper of general circulation in the Town, or in like manner the ordinance may be published after final passage, but such publication shall not be mandatory and ordinances duly passed shall be effective without publication.

(b) Resolutions shall be introduced in writing and, when passed, shall be signed by the Mayor and attested by the Recorder, and incorporated in the minutes of the Board together with full recitals of their introduction and passage. Resolutions require one (1) passage and take effect immediately, unless otherwise stated.

(c) Certified copies of the minutes, or portions of the minutes, showing the passage of an ordinance or resolution on final reading, shall be full and sufficient evidence of the ordinance or resolution in all trials in any court of this State, the certificate to be made by the Recorder under the seal of the Town.)

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF CHAPEL HILL TENNESSEE.

WHEREAS some of the ordinances of the Town of Chapel Hill are obsolete, and

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

WHEREAS the Board of Mayor and Aldermen of the Town of Chapel Hill, 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 "Chapel Hill Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF CHAPEL HILL, TENNESSEE, THAT:

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

<u>Section 2.</u> <u>Ordinances repealed</u>. 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.

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

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

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

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than 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

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

¹State law reference

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

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

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

<u>Section 8.</u> 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 fifteen (15) days 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, Passed 2nd reading, 20

)

)

Torse Mayor Recorder

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

- 1. BOARD OF MAYOR AND ALDERMEN.
- 2. MAYOR.
- 3. RECORDER.
- 4. TREASURER.
- 5. TOWN ADMINISTRATOR.
- 6. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

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

1-101. <u>Time and place of regular meetings</u>. 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 fire 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.

1-102. <u>Order of business</u>. At each 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.

¹Municipal code references Fire department: title 7. Utilities: title 18. Wastewater treatment: title 18. Zoning: title 14.

²Charter references Compensation, qualifications, etc.: § 6. Elections: § 8. Meetings: § 13.

- (2) Roll call by the recorder.
- (3) Amendment and approval of agenda.

(4) Reading of minutes of the previous meeting by the recorder, and approval or correction.

- (5) Citizen input.
- (6) Communications from the mayor.

(7) Reports from committees, members of the board of mayor and aldermen, and other officers.

- (8) Old business.
- (9) New business.
- (10) Adjournment.

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

(2) Questions regarding procedure and interpretation of rules of order shall be directed to the town attorney if present. If the town attorney is not present, the mayor shall answer questions of procedure and interpretation of Robert's Rules of Order. The ruling of either the town attorney or mayor stands unless overruled by a majority of the board.

1-104. <u>Compensation for the board of mayor and aldermen</u>. The mayor and aldermen shall be paid a salary of one hundred and fifty dollars (\$150.00) per month. (as added by Ord. #10-05, Aug. 2010)

\underline{MAYOR}^1

SECTION

1-201. Duties of mayor.1-202. Executes city's contracts.

1-201. <u>Duties of mayor</u>. The mayor shall perform such duties as provided by the charter and any ordinances duly enacted by the board of mayor and aldermen consistent with the charter.

1-202. <u>Executes city's contracts</u>. The mayor shall execute all contracts as authorized by the board of mayor and aldermen.

¹Charter references Compensation: § 6. Election: § 8. Powers and duties: § 14. Qualifications for office: § 6.

RECORDER¹

SECTION

1-301. To be bonded.1-302. To keep minutes, etc.

1-301. <u>**To be bonded**</u>. The recorder shall be bonded in such sum as may be fixed by resolution of the board of mayor and aldermen.

1-302. <u>To keep minutes, etc</u>. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. The recorder shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers.

¹Charter reference Bond, compensation, duties: § 25.

TREASURER¹

SECTION

1-401. To be bonded. 1-402. Duties.

1-401. <u>**To be bonded**</u>. The treasurer shall execute a bond in a sum fixed by the board, conditioned upon the faithful and honest performance of the duties of the office.

1-402. <u>Duties</u>. The treasurer shall perform the following duties:

(1) Receive and receipt for taxes and other revenues and bonds of the town;

(2) Have charge of all monies of the town and keep account of all funds of whatever kind which may come into his hands;

(3) Exercise general supervision over the fiscal affairs of the town;

(4) Have custody of all papers, records, and vouchers relating to the fiscal affairs of the town;

(5) Have general accounting supervision over all the town's property, assets and disposition thereof;

(6) Keep records showing the financial operation and condition, property, assets, claims and liabilities of the town, all expenditures authorized, and all contracts in which the town is interested;

(7) Perform other duties as provided in the charter or by ordinance.

¹Charter reference Treasurer: § 24.

TOWN ADMINISTRATOR

SECTION

1-501. Administration of municipal business.

1-501. <u>Administration of municipal business</u>. The town administrator shall perform the following duties:

(1) Administer the business of the town;

(2) Employ, direct, control, supervise, discipline, suspend, discharge and terminate all employees of the town, except those appointed by the board, in accordance with policies and procedures adopted by the board; provided, however, a discharged or terminated employee shall have the right to appeal such discharge or termination to the board, pursuant to procedures established by the board;

(3) Issue, or cause to be issued, licenses and permits on behalf of the town;

(4) Act as purchasing agent for the town in the purchase of all materials, supplies and equipment for the proper conduct of town business; provided, all purchases shall be made in accordance with policies, procedures and practices approved or established by the board and state law;

(5) Make recommendations to the board for improving the quality and quantity of public service to be rendered by the town to its citizens;

(6) Keep the board and its members advised as to the condition and needs of the town;

(7) Report to the board the condition of the town's property and recommend repairs and replacements as needed not in the budget;

(8) Recommend to the board the priority of programs or projects involving public works or improvements that should be undertaken by the town;

(9) Recommend the creation or abolishment of personnel positions;

(10) Regularly attend board meetings; and

(11) Perform such other duties as may from time to time be designated or required by the board.

CODE OF ETHICS

SECTION

- 1-601. Applicability and interpretation.
- 1-602. Definitions.
- 1-603. Disclosure of personal interest by official with vote.
- 1-604. Disclosure of personal interest in nonvoting matters.
- 1-605. Acceptance of gifts, gratuities, etc.
- 1-606. Use of information.
- 1-607. Use of municipal time, facilities, etc.
- 1-608. Use of position or authority.
- 1-609. Ethics opinions; complaints; investigations.
- 1-610. Violations.

1-601. <u>Applicability and interpretation</u>. (1) This chapter establishes the code of ethics for the town and 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 "city," "town" and "municipal" are interchangeable and shall include these separate entities. When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel provisions. In any situation in which a personal interest is also a conflict of interest under state law, the more restrictive provision shall apply.</u>

(2) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics. (as added by Ord. #2007-05, May 2007)

1-602. <u>Definitions</u>. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) "Censure" means an expression of severe criticism or reproach.

(2) "Credible," for the purposes of complaints alleging that any official or employee has violated any provision of this chapter, means that the complaint is not:

(a) Submitted anonymously.

(b) Clearly unbelievable.

(c) From a source not considered to be trustworthy under the circumstances.

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

(4) "Gift" means the transfer of anything of economic value, regardless of form, without reasonable consideration. "Gift" may include a subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value, conveyed or transferred. "Gift" does not include political campaign contributions which are solicited or accepted in accordance with applicable laws and regulations.

(5) "Official" means the members of the board of mayor and aldermen, as well as members appointed thereby to town boards, commissions, committees, authorities, corporations or instrumentalities established by law or by this code. "Official" also includes the town judge.

(6) "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 immediate family. For the purposes of this chapter, "immediate family" includes spouse, children (including natural, step and adoptive), parents (including natural, step and adoptive), siblings, parents-in-law, siblings-in-law, grandparents and grandchildren, and any other individual residing within the employee's household who is a legal dependent of the employee for income tax purposes. (as added by Ord. #2007-05, May 2007)

1-603. <u>Disclosure of personal interest by official with vote</u>. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #2007-05, May 2007)

1-604. <u>Disclosure of personal interest in nonvoting matters</u>. 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 discretion shall disclose the interest, before the exercise of the discretion when possible, on a form provided by and filed with the town recorder. Copies of such forms filed with the town recorder shall be provided to the town administrator and, in the case of an employee, filed in the employee's personnel file. In addition, the official or employee may, to the extent allowed by law, charter,

ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #2007-05, May 2007)

1-605. <u>Acceptance of gifts, gratuities, etc</u>. (1) 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:

(a) For the performance of an act, or refraining from performance of an act, that the individual would be expected to perform, or refrain from performing, in the regular course of the individual's duties; or

(b) That might reasonably be interpreted as an attempt to influence the individual's action, or reward the individual for past action, in executing municipal business.

(2) Unless impartiality and independent judgment of an official or employee would be compromised, this section shall not apply to meals provided to officials or employees or gifts of food, candy or other consumable items. (as added by Ord. #2007-05, May 2007)

1-606. <u>Use of information</u>. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment and not available to the general public with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #2007-05, May 2007)

1-607. <u>Use of municipal time, facilities, etc</u>. An official or employee may not use or authorize the use of municipal time, facilities, equipment, supplies or other resources for private gain or advantage to himself or to any private person or entity, except as authorized by legitimate contract or lease that is determined by the board of mayor and aldermen to be in the best interests of the town. This prohibition shall not apply when the board of mayor and aldermen or other appropriate board, commission or committee has authorized the use of such resources and established policies governing such use. (as added by Ord. #2007-05, May 2007)

1-608. <u>Use of position or authority</u>. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the town; provided, however, that this section shall not apply to reasonable amounts paid for:

(a) Food, transportation, lodging and other travel expenses incurred in accordance with the town's adopted travel policy.

(b) Dues, registrations, meals and similar expenses incurred in conjunction with membership or participation in a professional or

community organization to which the official or employee belongs in his official capacity.

(c) Meals purchased in the course of an official business meeting conducted on the town's behalf.

(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 in this article or by the charter, general law, or ordinance or policy of the town.

(3) No official or employee shall provide commercial or advertising endorsements in such a manner as to convey the town's approval of any private for-profit enterprise; provided, however, that an official or employee may respond to inquiries seeking information as to the town's experience with a vendor or other private enterprise. (as added by Ord. #2007-05, May 2007)

1-609. <u>Ethics opinions; complaints; investigations</u>. (1) <u>Ethics</u> <u>officer</u>. The town attorney is designated as the ethics officer of the town. The town attorney, in his discretion, may request the town administrator or board of mayor and aldermen appoint another attorney, individual or entity to act as ethics officer for the purposes of any specific investigation. For complaints considered by the board of mayor and aldermen may choose an individual or entity other than the town attorney to act as the ethics officer for the purposes of investigating the complaint.

(2) <u>Ethics opinions</u>. Upon the written request of an official or employee potentially affected by a provision of this chapter, the ethics officer may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(3) <u>Ethics complaints and investigations</u>. Allegations that any official or employee has violated any provision of this chapter will be processed and handled as follows:

(a) A complaint will be acted upon only if the complaint is in writing, signed by the person making the complaint and submitted to:

(i) The ethics officer, if the complaint is against any employee other than the town administrator or the ethics officer.

(ii) The town administrator, if the complaint is against the ethics officer or any official.

(iii) The mayor, if the complaint is against the town administrator.

(b) The ethics officer shall investigate any credible written complaint against an employee, other than the town administrator or the ethics officer.

(c) When a complaint is filed against the town administrator, the ethics officer, an appointed official or a member of the board of mayor and aldermen, the complaint shall be referred to the board of mayor and aldermen. For any such complaint, other than a complaint against the town administrator, the town administrator may gather information and present pertinent facts to assist the board of mayor and aldermen in its determination. The board of mayor and aldermen, by majority vote of its entire membership, shall determine that the complaint is credible and that a violation of this chapter has occurred, that the complaint is not credible or does not have merit, or that the complaint has sufficient merit to warrant further investigation; except that if the complaint is filed against a member of the board of mayor and aldermen, the disposition of the complaint shall be determined by a majority vote of the remaining members of the board of mayor and aldermen. If the board of mayor and aldermen determines that a complaint warrants further investigation, it shall authorize an investigation by the ethics officer, provided that the board of mayor and aldermen may choose an individual or entity other than the town attorney to act as the ethics officer for the purposes of the investigation.

(d) The ethics officer may also undertake an investigation on his own initiative when he acquires information indicating reasonable suspicion of a violation.

(e) Any person who is the subject of an investigation by the ethics officer shall be notified in writing at the beginning of the investigation and allowed the opportunity to respond to all allegations in person and/or in writing during the course of the investigation.

(f) In the course of an investigation, the ethics officer, at his discretion, may hold meetings and conduct interviews in person or by telephone, involving officials and employees of the town, as well as other individuals. The ethics officer may also request any information that he believes may be pertinent to the investigation. An employee's failure to cooperate in any investigation by the ethics officer shall be considered an act of insubordination and treated as such under the town's personnel rules and regulations.

(g) At the conclusion of an investigation, the ethics officer may issue written findings and make recommendations for action to end or seek remedies for any activity that, in the ethics officer's judgment, constitutes a violation of this code of ethics. For an investigation of any employee other the town administrator, copies of such findings and recommendations shall be provided to the employee, the town administrator and the employee's department head. For an investigation of any other individual, copies of such findings and recommendations shall be provided to the town administrator, the board of mayor and aldermen and the individual who is the subject of the investigation. (as added by Ord. #2007-05, May 2007)

1-610. <u>Violations</u>. (1) A member of the board of mayor and aldermen who violates any provision of this chapter is subject to punishment as provided

by the town's charter and/or other applicable law, and in addition is subject to censure by the board of mayor and aldermen. Any action taken by the board of mayor and aldermen against a member of the board of mayor and aldermen shall be determined by a majority vote of the remaining members of the board of mayor and aldermen.

(2) An official other than a member of the board of mayor and aldermen who violates any provision of this chapter is subject to punishment as provided by the town's charter and/or other applicable law. In addition, the board of mayor and aldermen may, by majority vote of its entire membership, censure the official or remove the official from office in such manner as may be permitted by law.

(3) In addition to any other remedy provided by law, an employee who violates any provision of this chapter is subject to disciplinary action, in accordance with the town's personnel rules and regulations, including but not limited to dismissal. (as added by Ord. #2007-05, May 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.¹

CHAPTER

- 1. INDUSTRIAL DEVELOPMENT BOARD.
- 2. RECREATION ADVISORY BOARD.
- 3. DESIGN REVIEW COMMISSION.

CHAPTER 1

INDUSTRIAL DEVELOPMENT BOARD²

SECTION

- 2-101. Purposes.
- 2-102. Directors.
- 2-103. Nonprofit status.

2-101. <u>Purposes</u>. The purposes for which the industrial development board is organized are to finance, acquire, own, lease, and/or dispose of properties, to increase employment opportunities, to promote industry, trade, commerce, tourism and recreation, agriculture and housing construction by inducing manufacturing, industrial, governmental, educational, financial, service, commercial, recreational and agricultural enterprises to locate in or remain in the Town of Chapel Hill, Tennessee, and to exercise the authority of and pursue the objectives of industrial development corporations as provided for in <u>Tennessee Code Annotated</u>, title 7, chapter 28, thereof (the "Act"). Prior to the financing of any project under the Act, the corporation shall have obtained the written approval of the governing body of the Town of Chapel Hill, Tennessee, to the financing of such project.

2-102. <u>Directors</u>. The industrial development board shall have seven (7) directors, all of whom shall be duly qualified electors of and taxpayers in the Town of Chapel Hill, Tennessee, whose terms of office, qualifications and duties shall be as provided for in <u>Tennessee Code Annotated</u>, title 7, chapter 28, as amended.

¹Municipal code reference

Planning commission: title 14, chapter 1.

²The provisions of this chapter were taken from the Charter of the Industrial Development Board.

2-103. <u>Nonprofit status</u>. The industrial development board shall be a nonprofit corporation as provided for in <u>Tennessee Code Annotated</u>, title 7, chapter 28, and shall constitute a public instrumentality of the Town of Chapel Hill, Tennessee, but shall have no power to obligate the municipality in any way, all as provided for in Tennessee Code Annotated, title 7, chapter 28.

RECREATION ADVISORY BOARD

SECTION

- 2-201. Definitions.
- 2-202. Creation--eligibility.
- 2-203. Terms of board members.
- 2-204. Officers--meetings--quorum.
- 2-205. Powers and duties.
- 2-206. Vacancies.
- 2-207. Conflicts of interest.

2-201. Definitions. As used herein:

(1) "Board" means the Town of Chapel Hill Parks and Recreation Advisory Board; and

(2) "Parks" means areas of land owned by the town and used for public recreation purposes, picnic grounds, playgrounds, athletic fields, community centers, recreation centers, as well as other recreational facilities and open space used for the benefit of the public. (as added by Ord. #07-12, Dec. 2007, and replaced by Ord. #11-02, June 2011)

2-202. <u>Creation--eligibility</u>. (1) There is hereby created a parks and recreation advisory board as a subsidiary commission of the board of mayor and aldermen, consisting of seven (7) voting members, each appointed by the mayor and approved by a majority vote of the board of mayor and aldermen. Appointments shall be made from citizens of recognized fitness for the position, based on a demonstrated interest in parks and recreation, and to some degree, based on professional training/expertise in related fields. The mayor and one (1) aldermen shall serve as two (2) of the seven (7) members of the board. The other initial members of the board shall include members of the existing parks and recreation board.</u>

(2) <u>Compensation</u>. No board member shall receive any compensation for his or her services. (as added by Ord. #07-12, Dec. 2007, and replaced by Ord. #11-02, June 2011)

2-203. <u>Terms of board members</u>. Board members shall be appointed to two (2) year terms running from January 1 through December 31, or until a member's successor is duly appointed and confirmed. Terms shall be staggered so that one third (1/3) of terms expire each year. Members of the board serve at the will and pleasure of the mayor and may be removed at any time with or without cause and with or without notice. If any member whose term has expired wishes to remain on the park and recreation board, he/she shall submit an application to the mayor for appointment and approval by the board of mayor

and aldermen. (as added by Ord. #07-12, Dec. 2007, and replaced by Ord. #11-02, June 2011)

2-204. <u>Officers--meetings--quorum</u>. (1) Members of the board shall meet and organize by electing from the members of the board a chair and vice-chair and secretary and such other officers as may be necessary. The chair and vice-chair shall be elected for a one (1) year term taking office January 1st. All board members present are eligible to vote. In the event the chair is unable to complete his or her term, the vice-chair will assume the position of the chair until the expiration of the one (1) year term, and a new vice-chair shall be elected. The town administrator or his proxy shall serve as an ex officio member of the park and recreation board.

(2) The chair shall preside at all meetings of the board and in his or her absence, the vice-chair shall preside.

(3) A majority of the board shall constitute a quorum, and affirmative votes shall be necessary to carry any proposition.

(4) A meeting of the board shall be held at least once every three (3) months.

(5) All meetings are required to abide by Tennessee state laws and required to be advertised in local newspaper in accordance with the Open Records Act. (as added by Ord. #07-12, Dec. 2007, and replaced by Ord. #11-02, June 2011)

2-205. Powers and duties. The board shall:

(1) Develop bylaws consistent with this chapter to govern the internal affairs of the board. The Chapel Hill Board of Mayor and Aldermen must approve all bylaws;

(2) Advertise and make recommendations to the board of mayor and aldermen regarding acquisition, promotion, improvement, maintenance, and use of town parks, and advertise and make recommendations in regards to recreational programs and events. All recommendations presented to the board of mayor and aldermen should include estimates of the impact on the annual revenues and operating expenses, as well as the projected capital cost of the project;

(3) Make suggestions regarding available grants for the purpose of supporting town parks;

(4) Coordinate with the town administrator to assure that the board's recommendations are feasible and practical;

(5) Submit to the board of mayor and aldermen during March of each year a report of accomplishments for the previous year and an annual work-plan recommendation for the development and operation of the parks and recreation program and facilities, for the information of and as a recommendation to the board of mayor and aldermen in preparing the annual parks and recreation budget;

Change 1, July 9, 2012

(6) Carry out other parks and recreation related tasks assigned by the board of mayor and aldermen or by ordinance; and

(7) Concurrently, the purchase of all materials, supplies, equipment and services shall be strictly regulated and performed by the Town of Chapel Hill and are required to have a purchase order. (as added by Ord. #07-12, Dec. 2007, and replaced by Ord. #11-02, June 2011)

2-206. <u>Vacancies</u>. The office of any member shall become vacant upon his or her resignation delivered to the chairman of the board. Any member who misses three (3) regularly scheduled meetings in a calendar year will immediately and without notice be automatically removed from the board. The mayor shall then appoint and the board of mayor and aldermen shall approve a new member to serve the remainder of the removed member's term on the park and recreation board. (as added by Ord. #07-12, Dec. 2007, and replaced by Ord. #11-02, June 2011)

2-207. <u>Conflicts of interest</u>. It is specifically understood that all members of the park and recreation advisory board shall with their appointments receive and accept the responsibilities of public trust and no member of the park and recreation advisory board, directly or indirectly, shall participate in any way in any decision, effort or function which even possibly ensures to his benefit, financially or otherwise. All members shall comply with the town ethics policy. (as added by Ord. #07-12, Dec. 2007, and replaced by Ord. #11-02, June 2011)

DESIGN REVIEW COMMISSION

SECTION

2-301. Created.

2-301. <u>Created</u>. A design review commission is hereby created and the planning commission is designated as the design review commission. The design review commission shall develop and adopt general guidelines for the exterior appearance of nonresidential property, multiple-family residential property, and any entrance to a nonresidential development within the town as authorized by <u>Tennessee Code Annotated</u>, § 6-54-133. (as added by Ord. #12-01, April 2012)

TITLE 3

MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1

TOWN JUDGE

SECTION

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

3-101. <u>**Town judge**</u>. The officer designated by the charter to handle judicial matters within the town shall preside over the town court and shall be known as the town judge.

3-102. <u>Jurisdiction</u>. 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 not to exceed state authorized maximums.

¹Charter references Town court: § 26. Town attorney: § 27.

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of penalties and costs.
- 3-203. Disposition and report of penalties and costs.
- 3-204. Disturbance of proceedings.

3-201. <u>Maintenance of docket</u>. 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. <u>Imposition of penalties and costs</u>. All penalties and costs shall be imposed and recorded by the town judge on the town court docket in open court.

In all cases heard or determined by him, the town judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases.

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

3-204. <u>Disturbance of proceedings</u>. It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever.

¹State law reference <u>Tennessee Code Annotated</u>, § 8-21-401.

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of summonses.

3-302. Issuance of subpoenas.

3-301. <u>Issuance of summonses</u>. 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.</u>

3-302. <u>Issuance of subpoenas</u>. 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.

BONDS AND APPEALS

SECTION

3-401. Appeals.

3-401. <u>Appeals</u>. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days¹ next after such judgment is rendered, appeal to the circuit court upon posting a proper appeal bond.

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

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL POLICY.

2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1

PERSONNEL POLICY

SECTION

4-101. Policy to be made by resolution.

4-102. At will status of employees.

4-101. <u>Policy to be made by resolution</u>. The board of mayor and aldermen shall from time to time, by resolution, determine and set details of the town's personnel policy which shall not be in conflict with this chapter or the town's charter. (Ord. #02-04, Jan. 2002, modified)

4-102. <u>At will status of employees</u>. All employees, except elected officials, are "at will" employees of the town; an employee has no property interest in employment by the town; and personnel policies set forth in resolutions adopted by the town will not constitute a contract of employment but are guidelines. (Ord. #02-04, Jan. 2002)

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

- 4-201. Title.
- 4-202. Purpose.
- 4-203. Coverage.
- 4-204. Standards authorized.
- 4-205. Variances from standards authorized.
- 4-206. Administration.
- 4-207. Funding the program.
- 4-208. Severability.

4-201. <u>Title</u>. This chapter shall provide authority for establishing and administering the Occupational Safety and Health Program Plan for the employees of the Town of Chapel Hill. (as added by Ord. #11-09, Dec. 2011)

4-202. <u>Purpose</u>. The Town of Chapel Hill, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

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

(a) Top management commitment and employee involvement;

(b) Continually analyze the worksite to identify all hazards and potential hazards;

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

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

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

(3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

¹The plan of operation for the Occupational Safety and Health Program for the Town of Chapel Hill is included in Appendix A.

(4) Consult with the state commissioner of labor and workforce development with regard to the adequacy of the form and content of records.

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (as added by Ord. #11-09, Dec. 2011)

4-203. <u>Coverage</u>. The provisions of the Occupational Safety and Health Program Plan for the employees of the Town of Chapel Hill shall apply to all employees of each administrative department, commission, board, division, or other agency of the Town of Chapel Hill whether part-time or full-time, seasonal or permanent. (as added by Ord. #11-09, Dec. 2011)

4-204. <u>Standards authorized</u>. The occupational safety and health standards adopted by the Town of Chapel Hill are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (<u>Tennessee Code Annotated</u>, title 50, chapter 3). (as added by Ord. #11-09, Dec. 2011)

4-205. <u>Variances from standards authorized</u>. The Town of Chapel Hill may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by <u>Tennessee Code Annotated</u>, title 50. Prior to requesting such temporary variance, the Town of Chapel Hill shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the Town of Chapel Hill shall be deemed sufficient notice to employees. (as added by Ord. #11-09, Dec. 2011)

4-206. <u>Administration</u>. For the purposes of this chapter, (Name of Position) is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and

Change 1, July 9, 2012

administer ______. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #11-09, Dec. 2011)

4-207. <u>Funding the program</u>. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the ______. (as added by Ord. #11-09, Dec. 2011)

4-208. <u>Severability</u>. If any section, sub-section, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. (as added by Ord. #11-09, Dec. 2011)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. PURCHASING.
- 3. REAL AND PERSONAL PROPERTY TAXES.
- 4. WHOLESALE BEER TAX.
- 5. DEBT POLICY.

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Business Tax Act adopted.

5-101. <u>Business Tax Act adopted</u>. (1) Except as otherwise specifically provided, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act," pursuant to <u>Tennessee Code Annotated</u>, § 67-4-701, <u>et seq</u>., are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the municipality at the rates and in the manner prescribed by the said act.

(2) No person shall exercise any such privilege within the municipality without a currently effective privilege license, which shall be issued by the treasurer to each applicant therefor upon such applicant's compliance with the regulatory provisions in this code and payment of the appropriate privilege.

(3) Violations of this section shall be punished under the general penalty provisions of this code of ordinances. (____, Feb. 1981, modified)

Municipal code reference

¹Charter reference

Taxation and revenue: § 28.

Privilege tax on beer sales: § 8-209.

PURCHASING

SECTION

5-201. Purchases without public advertisement and competitive bidding.

5-201. Purchases without public advertisement and competitive

bidding.¹ (1) (a) The Town of Chapel Hill shall not be required to make public advertisement and accept competitive bids for purchases costing less than five thousand dollars (\$5,000.00);

(b) Wherever the words and figures two thousand five hundred dollars (\$2,500.00) appear in <u>Tennessee Code Annotated</u>, § 6-56-301, <u>et seq</u>., it shall be deemed a reference to five thousand dollars (\$5,000.00); and

(2) All purchases up to four thousand nine hundred ninety-nine dollars and ninety-nine centers (\$4,999.99) may be made at the discretion of the town administrator.

(3) Purchases mean and shall include all purchases and leasepurchases as defined in <u>Tennessee Code Annotated</u>, § 6-56-301, <u>et seq</u>. (Ord. #97-1, March 1997, modified)

REAL AND PERSONAL PROPERTY TAXES¹

SECTION

5-301. When due and payable.5-302. When delinquent; penalty and interest.

5-301. <u>When due and payable</u>. Taxes levied by the city against real and personal property shall become due and payable annually on the first day of October of the year for which levied.

5-302. <u>When delinquent; penalty and interest</u>. All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.

¹Charter reference Taxation and revenue: § 28.

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. <u>To be collected</u>. The town treasurer is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in <u>Tennessee Code Annotated</u>, title 57, chapter 6.¹

Municipal code references

¹State law reference

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

Alcohol and beer regulations: title 8. Beer privilege tax: § 8-209.

DEBT POLICY¹

SECTION

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

5-501. <u>Definition of debt</u>. 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, bonds, capital leases, and loans of any type (whether from an outside source such as a bank or from another internal fund). (as added by Ord. #11-11, Dec. 2011)

5-502. <u>Approval of debt</u>. Pursuant to state law, 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's board of mayor and aldermen 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 board of mayor and aldermen; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days. (as added by Ord. #11-11, Dec. 2011)

5-503. <u>**Transparency**</u>. (1) The town shall comply with legal requirements for notice and for public meetings related to debt issuance.

¹State law references

<u>Tennessee Code Annotated</u>, part 9: Contracts, leases and lease purchase agreements.

<u>Tennessee Code Annotated</u>, part 21: Local government public obligations law.

Change 1, July 9, 2012

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

(3) All costs (including principal, interest, issuance, continuing, and one (1) time) shall be clearly presented and disclosed to the citizens and the board of mayor and aldermen at the next regular scheduled council meeting.

(4) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens and the board of mayor and aldermen at the next regular scheduled council meeting.

(5) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens and the board of mayor and aldermen at the next regular scheduled council meeting. (as added by Ord. #11-11, Dec. 2011)

5-504. <u>Role of debt</u>. 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 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.

In accordance with Generally Accepted Accounting Principles (GAAP) and state law:

(1) 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.

(2) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (as added by Ord. #11-11, Dec. 2011)

5-505. <u>Types and limits of debt</u>. (1) A town property tax must be in place before debt may be issued that:

(a) Matures in more than twelve (12) fiscal years from the fiscal year of issuance, inclusive of renewals and extensions; or

(b) Causes the aggregate amount of debt outstanding (including the proposed debt) to exceed one million dollars (\$1,000,000.00).

(2) In the occurrence of a catastrophic event (i.e., tornado, earthquake, flood, or other natural disaster) the borrowing limit shall not be in effect for this type of event.

(3) The town will seek to limit total outstanding debt obligations to twenty-five percent (25%) of the assessed value of the town, excluding overlapping debt, enterprise debt, and revenue debt as determined by the annual audit.

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

Change 1, July 9, 2012

(5) The town's total outstanding debt obligation will be monitored and reported to the board of mayor and aldermen on an annual basis during the budget approval process by the town recorder. The town recorder shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The town recorder shall also report to the board of mayor and aldermen any matter than adversely affects the credit or financial integrity of the town.

(6) The town has issued capital outlay notes in the past and is authorized to issue general obligation bonds, revenue bonds, tax increment financing, loans, notes and other debt allowed by law, as it determines most appropriate.

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

(8) 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 will be thoroughly discussed in a public meeting and will be approved only if the mayor and board of aldermen determine such use is justified and in the best interest of the town.

(9) The town may use capital leases to finance short-term projects of five (5) years or less. (as added by Ord. #11-11, Dec. 2011)

5-506. <u>Use of variable rate debt</u>. (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 chooses not to use variable rate debt.

(3) Prior to any reversal of this provision:

(a) A written management report outlining the potential benefits and consequences of use of such rates must be submitted to the board of mayor and aldermen; and

(b) The board of mayor and aldermen must adopt a specific amendment to this policy concerning the use of variable interest rates. (as added by Ord. #11-11, Dec. 2011)

5-507. <u>Use of derivatives</u>. (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 board of mayor and aldermen; and

(b) The board of mayor and aldermen 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. (as added by Ord. #11-11, Dec. 2011)

5-508. <u>Costs of debt</u>. (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 board of mayor and aldermen in accordance with the notice requirements stated above.

(2) In case of 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.

(4) The town recorder will file necessary disclosure documents, including disclosure of costs to the comptroller's office as required by law. (as added by Ord. #11-11, Dec. 2011)

5-509. <u>Refinancing outstanding debt</u>. The town will refund debt when it is in the best financial interest of the town to do so, and the town recorder shall have the responsibility to analyze outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly approved by the board of mayor and aldermen, and all plans for current or advance refunding or debt must be in compliance with state laws and regulations.

The town recorder will consider the following issues when analyzing possible refunding opportunities:

(1) <u>Onerous restrictions</u>. Elimination of onerous or restrictive covenants contained in existing debt documents, or to take advantage of changing financial conditions or interest rates.

(2) <u>Economic purposes</u>. 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 town recorder if the refunding generates positive present value savings, and the town recorder must establish a minimum present value savings threshold for any refinancing.

(3) <u>Term</u>. Maintenance of the term of the originally issued debt; consideration of maturity extension, when necessary to achieve a desired outcome, provided such extension is legally permissible. The town recorder may also consider shortening the term of the originally issued debt to realize greater savings. (as added by Ord. #11-11, Dec. 2011)

5-510. <u>Professional services</u>. 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) <u>Counsel</u>. If the town chooses to hire an attorney other than the town attorney, it shall enter into an engagement letter agreement with each lawyer or law firm representing the town in a debt transaction.

(2) <u>Financial advisor</u>. 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 for 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) <u>Underwriter</u>. 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 provided 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 town recorder in advance of the pricing of the debt. (as added by Ord. #11-11, Dec. 2011)

5-511. <u>Conflicts</u>. 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, bond counsel, trustee, paying agent, liquidity or credit enhancement provider, and underwriter), 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.

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. (as added by Ord. #11-11, Dec. 2011)

5-512. <u>**Review of policy**</u>. This policy shall be reviewed annually by the board of mayor and aldermen with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial

Change 1, July 9, 2012

5-513. <u>Compliance</u>. The town recorder is responsible for ensuring substantial compliance with this policy. (as added by Ord. #11-11, 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 chief.

- 6-102. Policemen subject to chief's orders.
- 6-103. Policemen to preserve law and order, etc.

6-104. Police department records.

6-101. <u>Police chief</u>. The administrator shall hire the police chief, whose salary shall be fixed by the administrator within the budget for the police department.

6-102. <u>Policemen subject to chief's orders</u>. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue.

6-103. <u>Policemen to preserve law and order, etc</u>. Policemen shall preserve law and order within the town. They shall patrol the town and shall assist the town court during the trial of cases. Policemen shall also promptly serve any legal process issued by the town court.

6-104. <u>Police department records</u>. 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 policemen.

¹Municipal code reference

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

(3) All police investigations made, funerals, convoyed, fire calls answered, and other miscellaneous activities of the police department.

(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 insuring that the police department complies with the section.

ARREST PROCEDURES

SECTION

6-201. When policemen to make arrests.

6-202. Disposition of persons arrested.

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

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

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

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

6-202. <u>Disposition of persons arrested</u>. <u>Felonies or misdemeanors</u>. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender.

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. <u>Citations in lieu of arrest in non-traffic cases</u>.¹ Pursuant to <u>Tennessee Code Annotated</u>, § 7-63-101, <u>et seq</u>., the board of mayor and aldermen designates the police chief and the building inspector/codes enforcer as having the authority to issue citations in lieu of arrest. The police chief or building inspector 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 building inspector/codes enforcer shall have the authority to issue citations in lieu of arrest for violations in lieu of arrest for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances. The building inspector/codes enforcer shall have the authority to issue citations in lieu of arrest for violations of the building, utility and housing codes adopted in title 12 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 <u>Tennessee Code Annotated</u>, § 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. <u>Summonses in lieu of arrest</u>. Pursuant to <u>Tennessee Code</u> <u>Annotated</u>, § 7-63-201, <u>et seq</u>., 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 and the building inspector/codes enforcer to issue ordinance summonses in those areas. These enforcement officers may <u>not</u> arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of

¹Municipal code reference

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

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 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 CITY LIMITS.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

7-101. <u>Fire limits described</u>. The corporate fire limits shall be the corporate limits of the town.

¹Municipal code reference

Building, utility and housing codes: title 12.

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Modifications.
- 7-203. Definition of "municipality."
- 7-204. Gasoline trucks.
- 7-205. Variances.
- 7-206. Violations and penalties.
- 7-207. Open burning.

7-201. <u>Fire code adopted</u>. Pursuant to authority granted by <u>Tennessee</u> <u>Code Annotated</u>, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the <u>Uniform Fire Code</u> (NFPA No. 1),² 2003 edition, as recommended by the National Fire Protection Association, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the <u>Uniform Fire Code</u> has been filed with the city recorder and is available for public use and inspection. The <u>Uniform Fire Code</u> is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits.

7-202. <u>Modifications</u>. The <u>Uniform Fire Code</u> adopted in § 7-101 above is modified by deleting therefrom section 1.10, titled <u>Board of Appeals</u>, in its entirety; § 7-105 below shall control appeals.

7-203. <u>Definition of "municipality</u>." Whenever the word "municipality" is used in the uniform fire code herein adopted, it shall be held to mean the Town of Chapel Hill, Tennessee.

7-204. <u>Gasoline trucks</u>. 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.

¹Municipal code reference

Building, utility and housing codes: title 12.

²Copies of this code are available from the National Fire Protection Association, Inc., 1 Batterymarch Park, Quincy, MA 02269-9101.

7-205. <u>Variances</u>. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the uniform 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.

7-206. <u>Violations and penalties</u>. It shall be unlawful for any person to violate any of the provisions of this chapter or the <u>Uniform Fire Code</u> herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The violation of any section of this chapter shall be punishable by a penalty not to exceed the state authorized maximum. Each day a violation is allowed to continue shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions.

7-207. <u>**Open burning**</u>. (1) After the effective date of these regulations, no person shall cause, suffer, allow, or permit open burning of any kind except as specifically permitted herein.

(2) Open burning, as described in this section, may be conducted without permits provided that no public nuisance is or will be created by such burning. Fires used for cooking food, fires for ceremonial or recreational purposes, including barbecues and outdoor fireplaces, and fires set for the training and instruction of firefighters, do not need a permit. 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.

(3) Open burning shall be allowed inside the corporate limits of the town when a valid permit has been obtained from the fire department. Prior to the burning, the person requesting the permit shall be certain that no detriment to the public health or damage to the land, water or air will be caused. The following conditions shall always be met:

(a) Open burning shall be between the hours of 9:00 A.M. and 3:00 P.M.

- (b) All fires shall be completely extinguished by 4:00 P.M.
- (c) The fires may never be left unattended.

Change 1, July 9, 2012

(4) To obtain a permit required by this chapter, the applicant shall file an application to the fire department on the forms prescribed by the department. No fee shall be required to obtain an opening burning permit. All permits issued shall be displayed while the open burning is in progress. The fire department shall have the authority to forbid, restrict, or suspend any and all burning when the fire chief or the senior fire officer in charge has determined that conditions are unfavorable or hazardous for outdoor fires. (as added by Ord. #10-08, Dec. 2010)

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. 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 town administrator, and such number of subordinate officers and firemen as the town administrator shall appoint.

7-302. <u>**Objectives**</u>. The volunteer fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.

(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.

7-303. <u>Organization, rules, and regulations</u>. 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

¹Municipal code reference

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

regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department,.

7-304. <u>Records and reports</u>. The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department.

7-305. <u>Compensation of members</u>. All personnel of the volunteer fire department shall receive such compensation for their services as the administrator may from time to time prescribe.

7-306. <u>Chief responsible for training and maintenance</u>. 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 of the town administrator.

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

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

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

7-401. <u>Restrictions on fire service outside town limits</u>. 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:

Tennessee Code Annotated, § 58-8-101, et seq., the Mutual Aid and (1)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) <u>Tennessee Code Annotated</u>, § 12-9-101, <u>et seq</u>., the Interlocal Cooperation Act, which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

(3) <u>Tennessee Code Annotated</u>, § 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 city limits to either citizens on an individual contractual basis, or to citizens in an area

without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

- 1. PACKAGE LIQUOR STORES.
- 2. BEER.

CHAPTER 1

PACKAGE LIQUOR STORES

SECTION

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate.
- 8-103. Applicant to agree to comply with laws.
- 8-104. Applicant to appear before board of mayor and aldermen; duty to give information.
- 8-105. Action on application.
- 8-106. Applicants for certificate who have criminal record.
- 8-107. Only one establishment to be operated by retailer.
- 8-108. Where establishments may be located.
- 8-109. Limitation on number of retailers.
- 8-110. Sales for consumption on premises.
- 8-111. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-112. Inspection fee.
- 8-113. Violations.

8-101. <u>Alcoholic beverages subject to regulation</u>. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this town except as provided by <u>Tennessee Code Annotated</u>, title 57, chapter 3. (Ord. #2001-8, July 2001, as replaced by Ord. #12-03, July 2012)

8-102. <u>Application for certificate</u>.² Before any certificate, as required by <u>Tennessee Code Annotated</u>, § 57-3-208 or a renewal as required by § 57-3-213

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

²State law reference <u>Tennessee Code Annotated</u>, § 57-3-208. Change 1, July 9, 2012

shall be signed by the mayor, or by any aldermen, an application in writing shall be filed with the town recorder on a form to be provided by the town, giving the following information:

(1) Name, age and address of the applicant.

(2) Time of residence in the town.

(3) Occupation or business and length of time engaged in such occupation or business.

(4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any town ordinance, and the details of any such conviction.

(5) If employed, the name and address of employer.

(6) If in business, the kind of business and location thereof.

(7) The location of the proposed store for the sale of alcoholic beverages.

(8) The name and address of the owner of the store.

(9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

(10) Certain financial information pertinent to the applicant, partnership, corporation and partners or stockholders. (as added by Ord. #12-03, July 2012)

8-103. <u>Applicant to agree to comply with laws</u>. The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws and ordinances of the town and rules and regulations of the alcoholic beverage commission of the state for sale of alcoholic beverages. (as added by Ord. #12-03, July 2012)

8-104. <u>Applicant to appear before board of mayor and aldermen;</u> <u>duty to give information</u>. An applicant for a certificate of compliance may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board.¹ (as added by Ord. #12-03, July 2012)

8-105. <u>Action on application</u>. Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the town attorney for review, each of whom shall submit his findings to the board

¹State law reference

<u>Tennessee Code Annotated</u>, § 57-3-208 requires the certificate to be signed by the mayor or a majority of the governing body.

of mayor and aldermen within thirty (30) days of the date each application was filed.

The board of mayor and aldermen may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and aldermen. (as added by Ord. #12-03, July 2012)

8-106. <u>Applicants for certificate who have criminal record</u>. No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (as added by Ord. #12-03, July 2012)

8-107. <u>Only one establishment to be operated by retailer</u>. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the town. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise. (as added by Ord. #12-03, July 2012)</u>

8-108. <u>Where establishments may be located</u>. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the town except at locations zoned for that purpose. (as added by Ord. #12-03, July 2012)

8-109. <u>Limitation on number of retailers</u>.¹ No more than two (2) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (as added by Ord. #12-03, July 2012)

8-110. Sales for consumption on premises. No alcoholic beverages shall be sold for consumption, or shall be consumed, on the premises of the retail seller. (as added by Ord. #12-03, July 2012)

8-111. <u>Radios, amusement devices and seating facilities</u> prohibited in retail establishments. No radios, television sets, pinball

¹State law reference

Tennessee Code Annotated, § 57-3-208(c).

Change 1, July 9, 2012

machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. (as added by Ord. #12-03, July 2012)

8-112. <u>Inspection fee</u>. The Town of Chapel Hill hereby imposes an inspection fee in the maximum amount allowed by <u>Tennessee Code Annotated</u>, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the town. (as added by Ord. #12-03, July 2012)

8-113. <u>Violations</u>. 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. Upon conviction of any person under this chapter, it shall be mandatory for the town judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. However, nothing herein shall be construed to prevent the town from exercising any criminal or civil remedies that it may have with respect to violations of this chapter. (as added by Ord. #12-03, July 2012)

BEER¹

SECTION

- 8-201. Purpose.
- 8-202. Definitions.
- 8-203. Beer board established.
- 8-204. Meetings of the beer board.
- 8-205. Record of beer board.
- 8-206. Requirements for beer board quorum and action.
- 8-207. Powers and duties of the beer board.
- 8-208. Permit required for engaging in beer business.
- 8-209. Privilege tax.
- 8-210. Restrictions on granting permits.
- 8-211. Application and issuance of permits.
- 8-212. Beer permits restricted to certain businesses.
- 8-213. Interference with public health, safety and morals prohibited.
- 8-214. Requirements of retail stores; on premises permit holders.
- 8-215. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-216. Prohibited conduct or activities by permit holders.
- 8-217. Permit must be in the name of the person who owns business.
- 8-218. Permit to be posted.
- 8-219. Premises selling beer subject to inspection.
- 8-220. Revocation of beer permits.
- 8-221. Civil penalty in lieu of suspension.
- 8-222. Beer permits issued by Marshall County.
- 8-223. Violations.

8-201. <u>**Purpose</u>**. This chapter is adopted to regulate the sale of beer or other beverages of like content as herein defined, within the Town of Chapel Hill, Tennessee. (Ord. #2001-7, June 2001)</u>

8-202. <u>Definitions</u>. The following definitions are applicable to this chapter:

(1) "Beer" shall mean all beer of alcoholic content of not more than five percent (5%) by weight, or any other beverage of like content, except wine as defined in <u>Tennessee Code Annotated</u>, § 57-3-101(a)(20).

¹State law reference

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

(2) "Beer board" shall mean beer board as hereinafter established in § 8-203.

(3) "Board" shall mean the Board of Mayor and Aldermen of the Town of Chapel Hill, Tennessee.

(4) "Mayor" shall mean the Mayor of the Town of Chapel Hill, Tennessee or vice mayor when acting in the absence of the mayor.

(5) "Notice" shall mean publication in a newspaper of general circulation in the town if notice to the public, by U.S. Mail, postage prepaid, if notice is to the beer board members, and by U.S. Mail Certified Return Receipt Requested from permit holder, postage prepaid, if notice is to a permit holder.

(6) "Person" shall mean person, firm, corporation, joint-stock company, syndicate or association.

(7) "Premises" shall mean the interior of a building or structure including contiguous interior spaces which are not separated by a permanent solid wall from other portions of the building or structure under the same roof, and where applicable shall include the parking areas adjacent to or servicing the premises.

(8) "Town" shall mean the Town of Chapel Hill, Tennessee. (Ord. #2001-7, June 2001)

8-203. <u>Beer board established</u>. (1) There is hereby established a beer board to be composed of three (3) members appointed by the mayor, with consent of the board, each of whom shall hold office for three (3) years or until their successors are appointed; however, the mayor, without consent of the board, shall and upon passage of this chapter, appoint in writing one (1) member for a term to expire July 1, 2002, one (1) member for a term to expire July 1, 2003, and one (1) member for a term to expire July 1, 2004;

(2) Members of the beer board shall be residents of the town and shall receive no compensation;

(3) An annual organizational meeting of the beer board shall be held in July of each year and from its membership shall be elected a chairman and secretary. (Ord. #2001-7, June 2001)

8-204. <u>Meetings of the beer board</u>. All actions and meetings of the beer board shall be open to the general public and no action shall be taken in secret. The beer board shall hold regular meetings in the town hall on the second Tuesday of each January and July at 5:00 P.M. When there is business to come before the beer board, a special meeting may be called by the chairman or two members. Notice of regular and special meetings shall be published not less than six (6) days before the meeting. Notice of special meetings shall contain items to be considered and no other items shall be considered by the board. (Ord. #2001-7, June 2001, modified)

8-205. <u>Record of beer board</u>. The town recorder shall keep minutes of the meetings and proceedings of the beer board, which shall be a public record kept in the town hall, contain the dates of all meetings, the names of the board members present and a record of all matters heard by the beer board and all action taken thereon. All votes shall be by roll call duly recorded in the minutes. (Ord. #2001-7, June 2001, modified)

8-206. <u>Requirements for beer board quorum and action</u>. The attendance of 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 beer board shall be decided by a majority of the members present. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #2001-7, June 2001)

8-207. <u>Powers and duties of the beer board</u>. The beer board shall have the authority to regulate the transporting, storing, selling, distributing, possessing or receiving of beer within the town in accordance with the provisions of this chapter. The beer board is hereby given broad powers to investigate and shall have authority to inspect the premises of any applicant or permit holder at reasonable hours. (Ord. #2001-7, June 2001)

8-208. Permit required for engaging in beer business. It shall be unlawful for any person to sell or store for sale beer without making application to and obtaining a permit from the beer board. Applications shall be filed not less than fourteen (14) days before being considered at either a regular or special meeting. Upon receipt of an application, the town recorder shall mail/deliver copies of the application to board members. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to <u>Tennessee Code Annotated</u>, § 57-5-104(a), and shall be accompanied by a nonrefundable application fee of two hundred fifty dollars (\$250.00). If this fee is not paid or if the check is returned for any reason, the application shall not be considered by the board. 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. (Ord. #2001-7, June 2001, modified)

8-209. <u>Privilege tax</u>. There is hereby imposed on the business of selling beer an annual privilege tax of one hundred dollars (\$100.00), which shall be paid in January of each year. If a permit is issued in any month other than January the applicant shall pay a privilege tax prorated to the next January before the board issues a permit. Notice to each permit holder shall be mailed to the address specified on the permit. If a permit holder does not pay the tax by January 31, the town shall notify the permit holder that the tax payment is past due and is subject to a penalty of one thousand dollars (\$1,000.00). If the permit holder does not pay the tax within ten (10) days after receiving such notice, then the permit shall be void and shall not be reinstated without a new

applicant and application fee being submitted to the beer board. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #2001-7, June 2001, modified)

8-210. <u>Restrictions on granting permits</u>. No permit shall be issued to sell beer in violation of any state law, town ordinance, or this chapter or any amendment thereto. The judgment of the beer board on such matters shall be final subject to review pursuant to <u>Tennessee Code Annotated</u>, § 57-5-109. (Ord. #2001-7, June 2001)

8-211. <u>Application and issuance of permits</u>. Applications shall be issued only to the owner of the business and each applicant must state:

(1) The applicant's permanent address;

(2) The location of the premises at which the business shall be conducted;

(3) The owner or owners of the premises and the terms of any lease relative thereto;

(4) The names and addresses of all persons having a financial interest in the beer business proposed to be established;

(5) The name and address of person operating the business;

(6) No person will be employed in the handling or sale of beer that has been convicted within the past ten (10) years of any law against possession, sale, manufacturing or transportation of alcohol or any crime involving moral turpitude;

(7) That applicant will not engage in the sale of beer except on the premises for which the permit has been issued;

(8) That no sale of alcohol will be made except in accordance with the permit and in accordance with all state laws;

(9) That no sale shall be made for consumption on premises and no consumption will be permitted on the premises;

(10) No sale shall be made to minors;

(11) Such other information as may be requested on the application for beer permit. (Ord. #2001-7, June 2001, modified)

8-212. <u>Beer permits restricted to certain businesses</u>. The beer board shall only issue or renew permits:

(1) To sell in retail packages for off premises consumption, if the business satisfies the requirements of § 8-214;

(2) To a local chapter of a nationally organized and recognized club or lodge wherein beer may be sold at retail to its members to be consumed on the premises of the club or lodge.

(3) To sell for on premises consumption, if the business satisfies the requirements of § 8-214. (Ord. #2001-7, June 2001, as amended by Ord. #08-07, May 2008)

8-213. Interference with public health, safety and morals prohibited. No permit authorizing the sale of beer will be issued when such business is proposed to be located within two hundred fifty feet (250') of any existing school or its playground, day care, church, park or other place of public gathering or a private residence. 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 building of the nearest church, day care, residence or 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). This subsection shall not affect any location for which a beer permit was issued on or before October 11, 2011. (Ord. #2001-7, June 2001, as replaced by Ord. #10-06, Nov. 2010)

8-214. Requirements of retail stores; on premises permit holders.

(1) <u>Retail stores</u>. The beer board shall not issue a permit to sell beer except at retail packages by a duly permitted business where the total inventory of beer shall not at any time exceed twenty-five percent (25%) of the total value of all inventory for said business. Consumption of beer shall not be permitted on the premises unless the business obtains a dual permit in addition to the retail permit.

On premises consumption. The beer board shall not issue a permit (2)to sell beer for on premises consumption except to duly permitted restaurants that maintain adequate kitchen facilities, serve at least one (1) meal per day, five (5) days per week, and where at least fifty-one percent (51%) of all revenue of the business is derived from the sale of food each day. Copies of receipts for all revenue of the business for each month must be delivered or mailed to town hall not later than the 10th day of the following month. All such businesses must have free standing tables for the service of food and may not have pool tables on the premises. All sales of beer shall be made along with the sale of food prepared at the restaurant. All beer consumed on the premises must be served by employees of the business to the tables where the customers are served food (beer may not be "self service" from coolers or refrigerators directly by customers for consumption on the premises). An on premises permit shall not be issued to any establishment selling gasoline. No alcoholic beverages shall be consumed or open for consumption on or about any premises licensed hereunder after twelve fifteen (12:15) A.M.

(3) <u>Dual permits</u>. A business may obtain permits for both the retail sale of beer and for on premises consumption so long as it meets all of the requirements of both (1) and (2) above, pays a two hundred fifty dollar (\$250.00)

fee for each permit and has two (2) separate doors to the business, one (1) dedicated for the retail store and the other dedicated for the restaurant.

(4) The consumption of beer shall not be allowed on the premises of a permit holder outside of the building structure. (Ord. #2001-7, June 2001, as replaced by Ord. #08-07, May 2008, and amended by Ord. #09-08, Oct. 2009)

8-215. <u>Issuance of permits to persons convicted of certain crimes</u> <u>prohibited</u>. No beer permits shall be issued to any person who has been convicted for possession, sale, manufacture or transportation of alcohol or any crime involving moral turpitude within the past ten (10) years.

No person, firm, corporation, joint-stock company, syndicate or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (Ord. #2001-7, June 2001, modified)

8-216. <u>Prohibited conduct or activities by permit holders</u>. It shall be unlawful for any beer permit holder to:

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

(2) Employing any person under the age of eighteen (18) years in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to grocery stores selling beer for off premises consumption only.)

(3) Make or allow any sale of beer, or make, cause to allow to be made any gift thereof, between the hours of 12:00 midnight and 6:00 A.M. each and every day of the week including Sunday and, in addition, between the hours of 6:00 A.M. and 11:59 A.M. on Sunday.

(4) Allow any loud, unusual or obnoxious noises to emanate from the premises.

(5) Make or allow any sale of beer to any person under the age of twenty-one (21) years of age. The holder of the beer permit shall be strictly accountable for the violation of this provision and the burden of ascertaining age of such persons shall be upon the holder and operator, or their servants, of such place of business.

(6) Allow any person under eighteen (18) years of age to loiter in or about the place of business.

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

(8) Allow drunk or disreputable persons to loiter about the premises.

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

(10) Permit the consumption of beer on any parking lot which services and/or is adjacent to the premises which the permit holder has any interest in or control over. (Ord. #2001-7, June 2001, modified)

8-217. <u>Permit must be in the name of the person who owns</u> <u>business</u>. The permit issued by the beer board shall be in the name of the person owning the business rather than the manager, operator or employee of the owner. (Ord. #2001-7, June 2001)

8-218. <u>Permit to be posted</u>. Permits issued by the beer board shall be visible and displayed to the general public. (Ord. #2001-7, June 2001, modified)

8-219. <u>Premises selling beer subject to inspection</u>. All premises selling beer are subject to inspection by board members and town police during any hours the premises are open. (Ord. #2001-7, June 2001)

8-220. <u>Revocation of beer permits</u>. The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter or any of the laws of the State of Tennessee in regard to selling and storing for sale beer. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest, board members and the general public. Revocation proceedings may be initiated by the police chief or by any member of the city council or board. (Ord. #2001-7, June 2001)</u>

8-221. <u>Civil penalty in lieu of suspension</u>. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (Ord. #2001-7, June 2001)

8-222. <u>Beer permits issued by Marshall County</u>. Any person holding a beer permit issued by Marshall County for a premises subsequently included in an area annexed by the town, shall continue to be permitted to sell beer subject to the terms and provisions of this chapter, except such person shall not be required to pay the permit fee required in § 8-208 and shall pay the privilege tax required in § 8-209 prorated from the months from the date of annexation to the next due date. (Ord. #2001-7, June 2001)

8-223. <u>Violations</u>. Except as provided in § 8-221, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty clause 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. TRANSIENT DEALERS.
- 2. MISCELLANEOUS.
- 3. GOING OUT OF BUSINESS.
- 4. GARAGE SALE REGULATIONS.

CHAPTER 1

TRANSIENT DEALERS

SECTION

- 9-101. Definitions.
- 9-102. Permit required.
- 9-103. Exemptions.
- 9-104. Application for permit.
- 9-105. Issuance or refusal of permit.
- 9-106. Appeal.
- 9-107. Bond.
- 9-108. Loud noises and speaking devices.
- 9-109. Use of streets.
- 9-110. Exhibition of permit.
- 9-111. Policemen to enforce.
- 9-112. Revocation or suspension of permit.
- 9-113. Reapplication.
- 9-114. Expiration and renewal of permit.
- 9-115. Fee waived for certain businesses.
- 9-116. Violations.

9-101. <u>Definitions</u>. The following definitions are applicable to this chapter:

(1) "Merchandise," means any consumer item or goods that is or is represented to be new or not previously owned by a customer.

(2) "Person" means an individual, partnership or corporation.

¹Municipal code references

Building and plumbing codes: title 12. Liquor and beer regulations: title 8. Zoning: title 14. (3) "Temporary premises" means any public or quasi-public place, including but not limited to a hotel, motel, storeroom, outbuilding, tent, vacant lot, warehouse, railroad car or motor vehicle, temporarily occupied and/or in any manner for the purpose of exhibiting and/or selling merchandise to the public. Premises are not considered temporary if the same person has conducted business at the 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.

(4) "Transitory dealer" means any person who brings into a temporary premises and exhibits to the public merchandise for the purpose of selling or offering to sell such merchandise to the public. (Ord. #02-10, July 2002)

9-102. <u>Permit required</u>. It shall be unlawful for any transient dealer to ply his trade within the town's corporate limits without first obtaining a permit therefore in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (Ord. #02-10, July 2002)

9-103. <u>Exemptions</u>. This chapter shall not be applicable to:

(1) Persons selling at wholesale to retail merchants;

(2) Wholesale trade shows wherein there are no sales made to retail customers, and all purchases, if any, are made by licensed retail merchants;

(3) A person operating a permanent business but occupying a temporary premises and thereon prominently displays the business name and address;

(4) Yard sales. (Ord. #02-10, July 2002)

9-104. <u>Application for permit</u>. Applications for a permit must be made at least fourteen (14) days prior to exhibiting or offering for sale any merchandise. Applicants for a permit must file with the town administrator a sworn written application containing the following:

(1) Name and social security number;

(2) Permanent address;

(3) Local address of applicant;

(4) Address of temporary premises;

(5) Brief description of nature of business and merchandise to be sold;

(6) Dates and times during which business will be conducted;

(7) Description, state of registration and license number of motor vehicle used to make sales or solicitations;

(8) Name and address of employer, if any;

(9) Criminal record, if any;

(10) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the

case of transient merchants, the addresses from which such business was conducted in those municipalities;

(11) Names and address of those who will conduct business of applicant;

(12) Name and address of true owner of merchandise if applicant is not true owner;

(13) Statement of gross sales from businesses conducted in the Town of Chapel Hill for three (3) years immediately preceding the application and estimate of gross receipts to be received from business conducted in the Town of Chapel Hill for the first year subsequent to the application;

(14) If a corporation, a copy of certificate of existence issued by the Secretary of State of Tennessee and the name and address of agent for service of process;

(15) A recent photograph of applicant;

(16) At the time of filing of the application, a non-refundable fee in an amount provided by resolution of the board of mayor and aldermen shall be paid to the town to cover the cost of investigating the facts stated therein. (Ord. #02-10, July 2002, modified)

9-105. <u>Issuance or refusal of permit</u>. (1) Each application shall be referred to the chief of police for investigation. The chief shall report the findings to the town administrator within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory, the town administrator shall notify the applicant that his application is disapproved and no permit will be issued.

(3) If the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory, the town administrator shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-107 of this chapter. The town administrator shall keep a permanent record of all applications and permits issued. (Ord. #02-10, July 2002)

9-106. <u>Appeal</u>. Any person aggrieved by the action of the town administrator in the denial of a permit shall have the rights to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the town administrator within seven (7) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The town administrator shall set a time and place for a hearing of such appeal and written notice of the time and place of hearing shall be mailed, postage prepaid, to the applicant at the local address in the application at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (Ord. #02-10, July 2002)

9-107. Bond. Before the issuance of a permit, the applicant shall file with the town recorder a surety bond approved by the town administrator running to the town in the amount of one thousand dollars (\$1,000.00). The bond shall be issued on the condition that the permittee shall comply fully with all the provisions of the ordinances of the town and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any purchaser and the town that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any purchaser and the town doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (Ord. #02-10, July 2002)

9-108. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public or quasi-public places of the town or upon private premises where sound of volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell. (Ord. #02-10, July 2002)

9-109. <u>Use of streets</u>. No permittee shall have any exclusive neither right to any location in the public streets, nor be permitted a stationary location thereon, nor be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (Ord. #02-10, July 2002)

9-110. <u>Exhibition of permit</u>. Permittees are required to exhibit their permits at the temporary premises so as to be visible to the public. (Ord. #02-10, July 2002)

9-111. <u>Policemen to enforce</u>. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (Ord. #02-10, July 2002)

9-112. <u>Revocation or suspension of permit</u>. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen after notice and hearing, for any of the following causes: (a) Fraud, misrepresentation, or incorrect statement of the material fact contained in the application for permit or made in the course of carrying on the business of a transient dealer;

(b) Any violation of this chapter;

(c) Conviction of any crime or misdemeanor;

(d) Conducting the business of a transient dealer in any unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public;

(e) Material misrepresentation of quality of merchandise.

(2) Notice of the hearing for revocation of a permit shall be given by the town recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at the local address in the application at least five (5) days prior to the date set for hearing or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When necessary in the public interest the town administrator may suspend a permit pending the revocation hearing. (Ord. #02-10, July 2002)

9-113. <u>**Reapplication**</u>. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (Ord. #02-10, July 2002)

9-114. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire ten (10) days from the date issued. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions, which have changed since the last application was filed. Renewal application shall be accompanied by a non-refundable fee in an amount provided by resolution of the board of mayor and aldermen. (Ord. #02-10, July 2002, modified)

9-115. <u>Fee waived for certain businesses</u>. Business conducted exclusively for religious, charitable, scientific or educational purposes and the sale of agricultural and handicraft products shall not be required to pay the ten dollar (\$10.00) non-refundable fee as required in § 9-104(7) or file the bond as required in § 9-107. (Ord. #02-10, July 2002)

9-116. <u>Violations</u>. Any violation of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

MISCELLANEOUS

SECTION

9-201. Roadblocks, advertising or promotional activities on streets.

9-201. <u>Roadblocks, advertising or promotional activities on</u> <u>streets</u>. (1) <u>Definitions</u>. (a) "Person" means any person or group acting individually or in concert;

(b) "Roadblock" means any activity by one (1) or more persons which obstructs or slows traffic and includes, but is not limited to, a person standing on a street in such a position or moving to a position that when a vehicle stops for a traffic signal, such person can talk to the driver or any passenger for the purpose of selling or promoting the sale of anything or soliciting a contribution or gift of any kind.

(c) "Sign" means any type of display, sign, placard, signal or other device which advertises any activity and is not an official traffic control device or directional sign; and

(d) "Street" means any highway, street, alley or public right-ofway, except the square.

(2) Persons may establish a roadblock on the square for the purpose of selling or promoting the sale of anything or soliciting a contribution or gift for the national recognized organization, provided:

(a) Persons participating in a roadblock shall be at least twelve (12) years of age or older and each roadblock location shall be supervised by an adult;

(b) Person in charge of roadblock applies for a permit from the chief of police or his designee at least five (5) business days before the establishment of the roadblock;

(c) Persons participating in the roadblock remove all signs or other displays upon completion of the roadblock;

(d) Person in charge of roadblock, or his designee, shall be present throughout the time of the roadblock.

(e) Only one (1) permit will be issued for any given day.

(3) No person, except a law enforcement officer, fireman or one with authority to control traffic and the use of a street, shall establish a roadblock without a permit.

(4) No person shall be on a street without a permit:

(a) To solicit gifts or contributions or cause the solicitation of gifts or contributions;

(b) To sell, offer to sell or cause the selling or offering to sell any goods, whether the sale of such goods occurs on a street or off a street;

(c) To promote or advertise any activity; and

(d) To place a sign on a street to advertise or promote any activity.

(5) No person shall disobey an order to move or remove a sign issued by a person who is a law enforcement officer, firefighter, public works employee, or person with authority to control traffic on a street or to maintain public safety on a street.

(6) Any person violating any provision of this section shall be liable for any accident or other occurrence arising from the illegal use of a street and no liability shall attach to the town, its officials and any member of the Chapel Hill Police Department.

(7) This section is in accordance with <u>Tennessee Code Annotated</u>, § 39-17-307.

(8) Any person violating this section shall be subject to a penalty not to exceed fifty dollars (\$50.00) and each day of violation constitutes a separate and distinct violation.

(9) Permits shall be issued by the chief of police, or his designee, and shall be available for inspection at all times during a roadblock. (Ord. #98-6, Jan. 1999, modified)

GOING OUT OF BUSINESS

SECTION

9-301. "Going out of business" sales.

9-301. <u>"Going out of business" sales</u>. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section.

GARAGE SALE REGULATIONS

SECTION

- 9-401. Purpose.
- 9-402. Definitions.
- 9-403. Exemptions from chapter.
- 9-404. Penalty for violation of chapter.
- 9-405. Right of entry--authority of inspector.
- 9-406. Property permitted to be sold.
- 9-407. Duration of sale.
- 9-408. Display of property.
- 9-409. Signs.
- 9-410. Responsibility for maintaining order.
- 9-411. Parking.
- 9-412. Yard and garage sales--registration required.
- 9-413. Means of advertisement of yard sales--obstructing traffic.

9-401. <u>Purpose</u>. The council finds and declares that unregulated garage sales and yard sales are causing annoyance to the citizens in residential areas in the town and congestion of the streets in residential areas in the town. The purpose of this chapter is to regulate the term and frequency of garage sales and yard sales, for the safety and welfare of the town's citizens. (as added by Ord. #11-08, Oct. 2011)

9-402. <u>Definitions</u>. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The word "shall" is always mandatory and not merely directory.

(1) "Community yard sale" means the inclusion of five (5) or more surrounding neighbors in combination for the sole purpose of the sale of goods, wares, merchandise, personal property of such kind as household articles, utensils, jewelry, clothing, furniture, or other articles of this kind and may be also known as a garage sale.

(2) "Garage sale" means and includes all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone as defined by the zoning ordinance, 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 legal operation of licensed businesses carried on in a nonresidential zone where the person conducting the sales does so, on a regular day-to-day basis. This definition shall not include a situation where no

more than three (3) specific items or articles are held out for sale and where all advertisement of such sale specifically names those items to be sold.

(3) "Personal property" means property which is owned, utilized and maintained by an individual or members of its 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.

(4) "Yard sales." A yard sale is defined as a sale of goods, wares, merchandise, personal property of such kind as household articles, utensils, jewelry, clothing, furniture, or other articles of this kind and may be also known as a garage sale. Such a sale is usually held by a private citizen or citizens on property owned by the citizen and/or property occupied as rental property, and may be held on a space rented for the sale. (as added by Ord. #11-08, Oct. 2011)

9-403. <u>Exemptions from chapter</u>. The provisions of this chapter shall not apply to or affect the following:

- (1) Persons selling goods pursuant to court order.
- (2) Persons acting within their powers and duties as public officials.

(3) Any sale conducted by any merchant 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 or under the protection of the nonconforming use provisions thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises and which is not otherwise prohibited by other ordinances.

(4) Any bona fide charitable, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution or organization and the goods or articles are not sold on a consignment basis. (as added by Ord. #11-08, Oct. 2011)

9-404. <u>Penalty for violation of chapter</u>. (1) Every article sold and/or every day a sale is conducted in violation of this article shall constitute a separate offense.

(2) Any person found guilty of violating the terms of this chapter shall be subject to punishment by a civil penalty of not less than fifty dollars (\$50.00) per day. (as added by Ord. #11-08, Oct. 2011)

9-405. <u>Right of entry--authority of inspector</u>. A police officer or any other public official shall have the right of entry to any premises showing evidence of a garage sale or yard sale for the purpose of enforcement or inspection. (as added by Ord. #11-08, Oct. 2011)

9-406. <u>Property permitted to be sold</u>. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (as added by Ord. #11-08, Oct. 2011)

Change 1, July 9, 2012

9-407. <u>Duration of sale</u>. Garage sales and yard sales shall be registered with the building official as provided for in § 9-412 of this chapter at no cost and shall be limited as follows:

(1) A period during a week not greater than four (4) consecutive days.

(2) Each property address shall be limited to four (4) yard sales annually with persons holding more than four (4) yard sales per year being subject to application for a license for the commissioner of finance and revenue under the Business Tax Act, shall be subject to sales tax, and may be required to keep an inventory of items on hand for the sale for inspection by the commissioner of finance and revenue.

(3) The hours of operation for any such sales shall be within the hours of 7:00 A.M. to 7:00 P.M on Thursdays, Fridays, Saturdays and Sundays only. (as added by Ord. #11-08, Oct. 2011)

9-408. <u>Display of property</u>. No personal property offered for sale at a garage sale or yard sale shall be displayed in any public right-of-way. (as added by Ord. #11-08, Oct. 2011)

9-409. <u>Signs</u>. (1) Only the following specified signs may be displayed in relation to a pending garage sale or yard sale; provided however, that such signs shall be subject to any other applicable ordinance of the town relating to the placement of signs:

(a) Two (2) signs of not more than twelve (12) square feet shall be permitted to be displayed on the property of the residence or nonresidential site where the garage sale or yard sale is being conducted.

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

(2) 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) Signs must be removed at the conclusion of the garage sale or yard sale activities. (as added by Ord. #11-08, Oct. 2011)

9-410. <u>Responsibility for maintaining order</u>. The individual to whom a permit is issued under this chapter and the owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such individual shall permit any loud or boisterous conduct on the premises or permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises. All such individuals shall obey the reasonable orders of any member

Change 1, July 9, 2012

of the police or fire department of the town in order to maintain the public health, safety and welfare. (as added by Ord. #11-08, Oct. 2011)

9-411. <u>**Parking**</u>. All parking of vehicles at sales regulated under this chapter shall be conducted in compliance with all applicable laws and ordinances. The police department may enforce such temporary controls as necessary to alleviate any special hazards and congestion created by any garage sale or yard sale. (as added by Ord. #11-08, Oct. 2011)

9-412. <u>Yard and garage sales-registration required</u>. All persons who hold or engage in a garage sale or yard sale within the town limits shall be residents of the town at the time of the sale and shall register such sales at town hall at least three (3) days prior to the sale. (as added by Ord. #11-08, Oct. 2011)

9-413. <u>Means of advertisement of yard sales-obstructing traffic</u>. It shall be unlawful for any person or persons holding or engaged in a garage sale or yard sale to cause congestion of traffic in the areas where the sale is being held. It shall be unlawful for any person or persons holding or intending to hold a garage sale or yard sale to post advertisement of the sale on telephone poles, utility poles, or in any manner anywhere except for temporary signs within the yard or space where the sale is being held or is to be held as set forth in other sections of this chapter. Advertising also may be given to the local news media for publication or other means of informing the public. (as added by Ord. #11-08, Oct. 2011)</u>

TITLE 10

ANIMAL CONTROL

CHAPTER

- 1. IN GENERAL.
- 2. DOGS AND CATS.

CHAPTER 1

IN GENERAL

SECTION

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

10-101. <u>Running at large prohibited</u>. 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. <u>Keeping near a residence or business restricted</u>. Swine are prohibited within the corporate limits. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand (1,000) feet of any residence, place of business, or public street, as measured in a straight line.

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

10-104. <u>Adequate food, water, and shelter, etc., to be provided</u>. No animal or fowl shall be kept or confined in any place where the food, water,

shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

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

It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl.

10-105. <u>Keeping in such manner as to become a nuisance</u> <u>prohibited</u>. 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. <u>Seizure and disposition of animals</u>. 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 not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.</u>

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. (as amended by Ord. #09-05, May 2009)

10-107. <u>Violation and penalty</u>. 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.

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 to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Destruction of vicious or infected dogs running at large.
- 10-209. Violation and penalty.

10-201. <u>Rabies vaccination and registration required</u>. 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" (<u>Tennessee Code Annotated</u>, §§ 68-8-101 through 68-8-115) or other applicable law.

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

10-203. <u>Running at large prohibited</u>.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. <u>Vicious dogs to be securely restrained</u>. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. A violation of this section shall subject the offender to a penalty not to exceed the state authorized maximum.

¹State law reference

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

10-205. <u>Noisy dogs prohibited</u>. 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. <u>Confinement of dogs suspected of being rabid</u>. 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. <u>Seizure and disposition of dogs</u>. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If 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.

10-208. <u>Destruction of vicious or infected dogs running at large</u>. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer.

10-209. <u>Violation and penalty</u>. 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.

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.

- 2. FORTUNE TELLING, ETC.
- 3. OFFENSES AGAINST THE PEACE AND QUIET.
- 4. FIREARMS, WEAPONS AND MISSILES.
- 5. TRESPASSING AND INTERFERENCE WITH TRAFFIC.
- 6. MISCELLANEOUS.

CHAPTER 1

ALCOHOL²

SECTION

11-101. Minors in beer places. 11-102. Violations and penalty.

11-101. <u>Minors in beer places</u>. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold.

11-102. <u>Violations and penalty</u>. A violation of any provision of this chapter shall subject the offender to a penalty not to exceed the state authorized maximum.

¹Municipal code references Animal control: 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.

State law reference

See <u>Tennessee Code Annotated</u> § 68-24-203 (<u>Arrest for Public</u> <u>Intoxication</u>, cities may not pass separate legislation).

FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc.

11-201. <u>Fortune telling, etc</u>. It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. A violation of this section shall subject the offender to a penalty not to exceed the state authorized maximum. Each day constitutes a separate offense.

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-301. Disturbing the peace.

11-302. Anti-noise regulations.

11-303. Violation and penalty.

11-301. <u>**Disturbing the peace**</u>. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.

11-302. <u>Anti-noise regulations</u>. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

(1) <u>Miscellaneous prohibited noises enumerated</u>. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) <u>Blowing horns</u>. The sounding of any horn or other device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) <u>Radios, phonographs, etc</u>. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) <u>Yelling, shouting, etc</u>. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

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

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

(e) <u>Blowing whistles</u>. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper town authorities.

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

<u>Building operations</u>. The erection (including excavation), (g) 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 6:00 A.M. and 7:00 P.M. Monday through Saturday and between 1:00 P.M. and 6:00 P.M. on Sundays, 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 7:00 P.M. and 6:00 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 7:00 P.M. and 6:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(h) <u>Noises near schools, hospitals, churches, etc</u>. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(i) <u>Loading and unloading operations</u>. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(j) <u>Noises to attract attention</u>. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise. (k) <u>Loudspeakers or amplifiers on vehicles</u>. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

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

(a) <u>City vehicles</u>. Any vehicle of the town while engaged upon necessary public business.

(b) <u>Repair of streets, etc.</u> 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) <u>Noncommercial and nonprofit use of loudspeakers or</u> <u>amplifiers</u>. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. Hours for the use of an 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.

11-303. <u>Violation and penalty</u>. A violation of any provision of this chapter shall subject the offender to a penalty not to exceed the state authorized maximum. Each occurrence shall constitute a separate offense.

FIREARMS, WEAPONS AND MISSILES

SECTION

11-401. Throwing missiles.11-402. Discharge of firearms.

11-401. <u>**Throwing missiles**</u>. It shall be unlawful for any person to maliciously throw any stone, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. A violation of this section shall subject the offender to a penalty not to exceed the state authorized maximum.

11-402. <u>Discharge of firearms</u>. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. A violation of this section shall subject the offender to a penalty not to exceed the state authorized maximum.

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

11-501. Trespassing.

11-502. Interference with traffic.

11-503. Violation and penalty.

11-501. <u>Trespassing</u>. (1) <u>On premises open to the public</u>.

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

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

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

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

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

(5) <u>Peddlers, etc</u>. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.¹

11-502. <u>Interference with traffic</u>. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

with the free passage of pedestrian or vehicular traffic thereon without a town issued permit.

11-503. <u>Violation and penalty</u>. A violation of any provision of this chapter shall subject the offender to a penalty not to exceed the state authorized maximum.

MISCELLANEOUS

SECTION

- 11-601. Abandoned refrigerators, etc.
- 11-602. Caves, wells, cisterns, etc.
- 11-603. Posting notices, etc.

11-601. <u>Abandoned refrigerators, etc.</u> It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door or otherwise sealing the door in such a manner that it cannot be opened by any child. A violation of this section shall subject the offender to a penalty not to exceed the state authorized maximum.

11-602. <u>Caves, wells, cisterns, etc.</u> It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. A violation of this section shall subject the offender to a penalty not to exceed the state authorized maximum.

11-603. <u>Posting notices, etc.</u> No person shall paint, make, or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so. A violation of this section shall subject the offender to a penalty not to exceed the state authorized maximum. Each posting of such unauthorized notice shall constitute a separate offense.

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING AND PLUMBING CODES.

CHAPTER 1

BUILDING AND PLUMBING CODES¹

SECTION

- 12-101. Building and plumbing codes adopted.
- 12-102. Modifications.
- 12-103. Available in recorder's office.
- 12-104. Permit fees.
- 12-105. Inspection.
- 12-106. Permit required.
- 12-107. Violations.

12-101. <u>Building and plumbing codes adopted</u>.² Pursuant to authority granted by <u>Tennessee Code Annotated</u>, §§ 6-54-501 through 6-54-506 for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, regulated plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the municipality, when such plumbing is or is to be connected with the town's water or sewage system, the <u>International Building Code</u>, ³ 2006 edition, as amended, and the <u>Southern Standard Plumbing Code</u>, 2000 edition, as

¹Municipal code references Planning and zoning: title 14. Property maintenance regulations: title 13.

Water and sewer: title 18.

²The 2006 <u>International Building Code</u> and its appendices is hereby adopted by reference as though set out fully herein and all conflicting codes and ordinances are hereby repealed. A complete copy of the 2006 <u>International</u> <u>Building Code</u> is available for inspection and review at town hall.

³Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

Change 1, July 12, 2012

hereby adopted and incorporated by reference as a part of this chapter and are hereinafter referred to as the building code and plumbing code ("codes"), respectively. The town shall adopt the latest subsequent edition of the codes, amendments or changes by administrative regulation adopted by the building inspector pursuant to <u>Tennessee Code Annotated</u>, § 6-54-502.¹ (Ord. #97-5, Sept. 1997, modified, as amended by Ord. #10-02, Feb. 2010)

12-102. <u>Modifications</u>. Whenever the codes refer to the "chief appointing authority," the "administrative authority," or the "governing authority," it shall be deemed reference to the board. Whenever the codes refer to the "building official," "director of public works," the "city engineer," the "engineering department," the "plumbing official," or the "inspector," it shall mean the person appointed or designated by the town administrator. (Ord. #97-5, Sept. 1997, modified)

12-103. <u>Available in recorder's office</u>. One (1) copy of the building and plumbing codes is on file in the recorder's office and available for use and inspection by the public. (Ord. #97-5, Sept. 1997, modified)

12-104. <u>Permit fees</u>. Fees charged for building and/or plumbing permits shall be as provided by resolution of the board of mayor and aldermen. A building permit fee shall be required for sheds. (Ord. #97-5, Sept. 1997, modified)

12-105. <u>Inspection</u>. The building and/or plumbing inspector shall enforce compliance with this chapter. He is authorized and directed to make such inspections as are necessary to insure compliance with all applicable regulations and codes, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. (Ord. #97-5, Sept. 1997)

12-106. <u>Permit required</u>. (1)A building permit shall be required to construct any building within the corporate limits of the Town of Chapel Hill or to enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the technical codes, or to cause any such work to be done, shall first make application to the building official and obtain the required permit for work.

¹Administrative regulations of the building inspector adopting amendments to the building and plumbing codes are available in the office of the recorder.

(2) <u>Exceptions</u>. Permits shall not be required for the following mechanical work:

(a) Any portable heating appliance;

(b) Any portable ventilation equipment;

(c) Any portable cooling unit;

(d) Any steam, hot or chilled water piping within any heating or cooling equipment regulated by the <u>Standard Mechanical Code</u>;

(e) Replacement of any part which does not alter its approval or make it unsafe;

(f) Any portable evaporative cooler;

(g) Any self-contained refrigeration system containing 10 lb. (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less;

(h) Temporary construction trailers. (Ord. #97-5, Sept. 1997, modified)

12-107. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the codes as herein adopted by reference and modified.

No utilities owned or controlled by the Town of Chapel Hill shall be furnished to any building which is in violation of this chapter. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #97-5, Sept. 1997, modified)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. JUNK VEHICLES.
- 3. SLUM CLEARANCE.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Stagnant water.
- 13-102. Weeds and grass.
- 13-103. Overgrown and dirty lots.
- 13-104. Health and sanitation nuisances.
- 13-105. Open burning.
- 13-106. Violations and penalty.

13-101. <u>Stagnant water</u>. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (Ord. #02-01, Jan. 2002)

13-102. <u>Weeds and grass</u>. It shall be unlawful for any owner or tenant of property to permit grass or other vegetation commonly recognized as weeds to grow to a height of over one (1) foot.

The provisions in this subsection shall not be construed to prohibit the growth of grass or other vegetation in excess of one foot (1') on property where hay is cut, livestock kept or where said property is used for any other agricultural purpose. (Ord. #02-01, Jan. 2002, as amended by Ord. #05-16, Oct. 2005)

13-103. <u>Overgrown and dirty lots</u>. 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. The town will enforce this prohibition in accordance with <u>Tennessee Code Annotated</u>, § 6-54-113. (Ord. #02-01, Jan. 2002, modified)

¹Municipal code reference Animal control: title 10.

13-104. <u>Health and sanitation nuisances</u>. It shall be unlawful for any person or permit any property owned, 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. (Ord. #02-01, Jan. 2002)

13-105. <u>Open burning</u>. (1) The open burning of any garbage, trash, rubbish, leaves, grass, construction debris, waste material or any other type of combustible material by any person, firm or corporation, without first having obtained written permission from the chief of the fire department, is hereby prohibited.

(2) The fire chief, in granting or denying such permission, shall take into consideration the atmospheric conditions, the site of the proposed burning in relation to proximate structures, the availability of fire suppression equipment at the site, the attendance of a competent person during the burning, and any other local conditions that might make such a fire hazardous. (Ord. #36, Dec. 1991)

13-106. <u>Violations and penalty</u>. Violations of this chapter shall subject the offender to a penalty not to exceed state authorized limits. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #02-01, Jan. 2002, modified)

JUNK VEHICLES

SECTION

13-201. Definitions.

13-202. Violations a civil offense.

13-203. Exceptions.

13-204. Enforcement.

13-205. Penalty for violations.

13-201. <u>Definitions</u>. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

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

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

(3) "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.

(4) (a) "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 earthmoving equipment, and any part of the same.

(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in 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 selfpropelled, or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels;

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

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows; (iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever;

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

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

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

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

13-202. <u>Violations a civil offense</u>. It shall be unlawful and a civil offense for any person:

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

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

(3) To park, store, keep, maintain on private property a junk vehicle for more than sixty (60) days.

13-203. <u>Exceptions</u>. (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 city.

13-204. <u>Enforcement</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this chapter on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints 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 <u>Tennessee Code Annotated</u>, § 7-63-101, <u>et seq</u>., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

13-205. <u>Penalty for violations</u>. Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation.

SLUM CLEARANCE

SECTION

13-301. Purpose.

13-302. Definitions.

13-303. Town administrator designated; powers.

13-304. Initiation of proceedings; hearings.

13-305. Orders to owners of unfit structures.

13-306. When public officer may repair, etc.

13-307. When public officer may remove or demolish.

13-308. Lien for expenses; sale of salvaged materials; other powers not limited.

13-309. Basis for a finding of unfitness.

13-310. Service of complaints or orders.

13-311. Enjoining enforcement of orders.

13-312. Additional powers of public officer and hearing official(s).

13-313. Powers conferred are supplemental.

13-314. Structures unfit for human habitation deemed unlawful.

13-315. Violations.

13-301. <u>Purpose</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 13-21-101, <u>et seq</u>., the board of mayor and aldermen finds that there exists in the town structures which are unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such structures unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town. (Ord. #02-14, Dec. 2002)

13-302. <u>Definitions</u>. (1) "Dwelling" means any building or structure, or part thereof, used or occupied for human occupation or use or intended to be used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen ("board") charged with governing the town.

(3) "Hearing officer(s)" shall mean the person(s) appointed by the board to conduct the hearing and issue the order herein provided for.

(4) "Municipality" shall mean the Town of Chapel Hill, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(5) "Owner' shall mean the holder of the title in fee simple and every mortgagee of record.

(6) "Parties in interest" means all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(7) "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.

(8) "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.

(9) "Public officer" means any officer or officers of the town appointed by the town administrator who is authorized by this chapter to exercise the powers provided herein and by <u>Tennessee Code Annotated</u>, § 13-21-101, <u>et seq</u>.; provided, however, if the town administrator does not appoint such officer(s) or until such officer(s) is appointed, the town administrator shall be the designated "public officer."

(10) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (Ord. #02-14, Dec. 2002, modified)

13-303. <u>Town administrator designated; powers</u>. There is hereby designated and appointed a "public officer" to be the town administrator of the town, or the person appointed and designated by the town administrator to exercise the powers prescribed herein, which powers shall be supplemental to all others held by the town administrator. (Ord. #02-14, Dec. 2002, modified)

13-304. Initiation of proceedings; hearings. Whenever a petition is filed with the town administrator 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(s) 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 hearing before the public officer. (Ord. #02-14, Dec. 2002, modified)

13-305. 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. (Ord. #02-14, Dec. 2002, modified)

13-306. <u>When public officer may repair, etc</u>. 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 order, 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 structure so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (Ord. #02-14, Dec. 2002, modified)

13-307. <u>When public officer may remove or demolish</u>. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the town administrator may cause such structure to be removed and demolished. (Ord. #02-14, Dec. 2002)

13-308. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of Marshall County, be a lien on the property in favor of the town, second only to liens of the state, county and town for taxes, any lien of the town 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 town tax collector at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes. In addition, the town may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The town may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Marshall 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 to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #02-14, Dec. 2002, modified)

13-309. <u>Basis for a finding of unfitness</u>. The public officer 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 structure, the occupants or users of neighboring structures or other residents of the town. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (Ord. #02-14, Dec. 2002, modified)

13-310. <u>Service of complaints or orders</u>. Complaints or orders issued by the public officer 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, in one printed and published in the county and circulated in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the 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 Marshall County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. #02-14, Dec. 2002, modified)

13-311. <u>Enjoining enforcement of orders</u>. Any person affected by an order issued by the public officer served pursuant to this chapter may file a complaint in Chancery Court of Marshall County for an injunction restraining the public officer from carrying out the provisions of the order, and the chancery

court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such complaint in 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.¹ (Ord. #02-14, Dec. 2002, modified)

13-312. <u>Additional powers of public officer and hearing official(s)</u>. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions to the structures in the town in order to determine which structures 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. (Ord. #02-14, Dec. 2002, modified)

13-313. <u>Powers conferred are supplemental</u>. This chapter shall not be construed to abrogate or impair the powers of any court or the town with regard to the enforcement of the provisions of its charter or any other ordinances, 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. (Ord. #02-14, Dec. 2002)

13-314. <u>Structures unfit for human habitation deemed unlawful</u>. 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

¹<u>Tennessee Code Annotated</u>, § 13-21-106 provides that the chancery court shall hold a hearing within twenty (20) days, or as soon thereafter as possible, and shall give preference over other matters on the court's calendar.

the health, safety and morals, or otherwise inimical to the welfare of the residents of the town. (Ord. #02-14, Dec. 2002)

13-315. <u>Violations</u>. Violations of this chapter shall subject the offender to a penalty not to exceed state authorized maximum limits for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #02-14, Dec. 2002, modified)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

- 1. MUNICIPAL PLANNING COMMISSION.
- 2. ZONING ORDINANCE.
- 3. FLOOD DAMAGE PREVENTION.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Creation and membership.

14-102. Organization, powers, duties, etc.

14-101. <u>Creation and membership</u>. Pursuant to the provisions of <u>Tennessee Code Annotated</u>, § 13-4-101, <u>et seq</u>., there is hereby created the Town of Chapel Hill Planning Commission ("commission"). The commission shall consist of five (5) members; two (2) of these shall be the mayor and an alderman, whose terms shall be concurrent with his or her terms of office, three (3) members shall be appointed by the mayor for terms of three (3) calendar years. All members of the commission shall serve without compensation. Appointed members shall serve at the pleasure of the mayor who has authority to remove an appointed member and fill a vacancy for the unexpired term. (Ord. #01-01, April 2001)

14-102. <u>Organization, powers, duties, etc</u>. The commission shall be organized and shall carry out its powers, functions, and duties in accordance with <u>Tennessee Code Annotated</u>, title 13. (Ord. #94-4, Feb. 1995)

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance. 14-202. Violations.

14-201. <u>Land use to be governed by zoning ordinance</u>. Land use within the Town of Chapel Hill shall be governed by Ordinance #94-4, titled "Zoning Ordinance, Chapel Hill, Tennessee," and any amendments thereto.¹ (Ord. #94-4, Feb. 1995)

14-202. <u>Violations</u>. Any violation of the zoning ordinance shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

¹Ordinance #94-4, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

Amendments to the zoning map are of record in the office of the city recorder.

FLOOD DAMAGE PREVENTION¹

SECTION

- 14-301. Findings of fact, purpose and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Variance procedures.
- 14-306. General standards for flood hazard reduction.
- 14-307. Specific standards for flood hazard reduction.
- 14-308. Standards for streams without established base flood elevations and/or floodways.
- 15-309. Other standards.
- 15-310. Guidelines and forms.

14-301. Findings of fact, purpose and objectives. (1) Findings of

<u>fact</u>. (a) The flood hazard areas of the Town of Chapel Hill, Tennessee ("town") subject to periodic inundation which may result in loss of life, personal injury, loss of property, disrupt commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the town's tax base all of which adversely affect public health, safety and general welfare and eliminate or minimize health, safety and general welfare and eliminate or minimize health and safety hazards.

(b) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities, and by the occupancy of land and buildings in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(2) <u>Statement of purpose</u>. 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 by provisions designed to:

¹An updated floodplain zoning ordinance was adopted on September 10, 2007, by Ordinance #07-09. The ordinance prescribed that the floodplain zoning regulations are to be placed in the Zoning Ordinance #94-4 and to replace all previous sections of the Zoning Ordinance previously adopted. The ordinance did not expressly repeal this chapter. Since this chapter covers the same subject matter, this section is also presumptively repealed by Ord. #07-09.

(a) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in increases in erosion or in flood heights or velocities;

(b) Require that uses vulnerable to floods, including facilities which serve such uses be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(d) Control filling, grading, dredging, excavating and other development which may increase erosion or flood damage, and;

(e) Regulate the construction of fills or flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(3) <u>Objectives</u>. The objectives of this chapter are:

(a) To protect human life and health;

(b) To minimize expenditure of public money for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains;

(f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such manner as to minimize flood blight areas, and;

(g) To ensure that potential home buyers are notified that property is in a flood area.(Ord. #04-05, Sept. 2004)

14-302. <u>Definitions</u>. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

(1) "Appeal" means a request for a review of the building inspector's interpretation of any provision of this chapter or a request for a variance.

(2) "Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. When requested by the building inspector, the developer shall, at his expense, provide the building inspector a certification of explanation by a Tennessee Registered Land Surveyor or licensed professional engineer.

(3) "Area of special flood hazard" is the land in the flood plain within

a community subject to a one (1) percent or greater chance of flooding in any given year.

(4) "Base flood" means the flood having a one (1) percent chance of being equalled or exceeded in any given year.

(5) "Basement" means that portion of a building between floor and ceiling, which may be wholly or partly below grade level; the lowest habitable story or level.

(6) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

(7) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage.

(8) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, dredging, excavating, filling, grading, paving, excavation or drilling operations.

(9) "Existing mobile home park or mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is or to be affixed (including at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this chapter.

(10) "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 waters; or

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

(11) "Flood Hazard Boundary Map" (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas having special hazard have been defined as Zone A.

(12) "Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

(13) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles as well as the flood boundary floodway map and the water surface elevation of the base flood.

(14) "Floodway" means the channel of a river, creek, 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 one foot. (15) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab or top of wood flooring. The term does not include the floor of a garage used solely for parking vehicles, but does include the inside bottom surface of any room.

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

(17) "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 flood plain. For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD).

(18) "Mobile home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. A manufactured or modular home is a mobile home. It does not include recreational vehicles or travel trailers.

(19) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

(20) "New construction" means structures for which the "start of construction" commenced on or after the effective date of this chapter.

(21) "New mobile home park" or "mobile home subdivision" means a parcel or contiguous parcels of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this chapter.

"Start of construction" includes substantial improvement, and (22)means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation or filling. Permanent construction does not 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 or intended to be occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "actual start" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, the "actual start" means the affixing by tie-downs the mobile home

to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, the "actual start" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed, including at a minimum the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities is completed.

(23) "Structure" means a walled and roofed building that is principally above ground, a mobile home, a gas or liquid building that is principally above ground, a storage tank, or other man-made facilities or infrastructures.

(24) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure, either

(a) Before the improvement or repair is started, or

(b) If the structure has been damaged and is being restored, before the damage occurred.

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

(a) Any project for improvement of a structure to comply with existing state and local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

(b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(25) "Variance" is a grant of relief to a person from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship. (Ord. #04-05, Sept. 2004)

14-303. <u>General provisions</u>. (1) <u>Lands to which this chapter applies</u>. This chapter shall apply to all areas of floods, flooding or special flood hazard within the jurisdiction of the town.

(2) <u>Basis for establishing the areas of special flood hazard</u>. The areas of special flood hazard identified by the Federal Emergency Management Agency and its Flood Insurance Rate Map of the town, dated ______, with accompanying maps and other supporting data, and any revision thereto are adopted by reference and declared to be a part of this chapter.

(3) <u>Establishment of development permit</u>. A development permit shall be required in conformance with the provisions of this chapter prior to any development activities. A development permit may be incorporated in and become part of a building permit.

(4) <u>Compliance</u>. No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) <u>Abrogation and greater restrictions</u>. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another municipal code section conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(6) <u>Interpretation</u>. In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the town, and;

(c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(7) <u>Warning and disclaimer of liability</u>. 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 flood or flood damages. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(8) <u>Penalties for violation</u>. 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 or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall be, upon conviction thereof, punished in accordance with the general penalty provisions of this code of ordinances. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. #04-05, Sept. 2004)

14-304. <u>Administration</u>. (1) <u>Designation of building inspector as local</u> <u>administrator</u>. The building inspector is hereby appointed to administer and implement the provisions of this chapter.

(2) <u>Permit procedures</u>. Application for a building permit shall be made to the building inspector on forms furnished by the building inspector prior to any development activities; and may include, but not be limited to the following: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, excavating, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the applicant shall provide the following information:

(a) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures;

(b) Elevation in relation to mean sea level to which any non-residential structure will be floodproofed;

(c) Certificate from a registered professional engineer or architect that the non-residential floodproofed structure meets the floodproofing criteria in § 14-307;

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

Provide a floor elevation or floodproofing certification after (e)the lowest floor is completed. Within twenty-one (21) calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the building inspector a certification of the elevation of the lowest floor, floodproofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean mea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The building inspector shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(f) Applicant's, after diligent and reasonable inquiry, certification that proposed structure, excavation and/or fill completed will not increase the volume of surface water run-off on adjacent property. The building inspector may require the applicant submit, at applicant's expense, certification by a registered land surveyor or professional engineer that surface water run-off will not increase volume of surface water run-off on adjacent property when work is completed.

(3) <u>Duties and responsibilities of the building inspector</u>. Duties of the building inspector shall include, but not be limited to:

(a) Review of all development permits to assure that the requirements of this chapter have been satisfied.

(b) Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are required that copies of such permits be provided by the permittee and maintained on file with the building permit. (c) Require the permittee to notify adjacent communities and the Local Planning Office of Economic and Community Development or other state coordinating agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency and the building inspector.

(d) Require permittee to properly maintain within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(e) Require the permittee to submit written verification and records of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 14-304.

(f) Require the permittee to submit written verification and records of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with § 14-304.

(g) The building inspector shall obtain certification from a registered professional engineer or architect at permittee's expense, that floodproofing of a structure is complete and satisfactory meets this chapter and all local and federal codes.

(h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the inspector may require the applicant and/or permittee, at their expense, furnish sufficient information to building inspector to assist, with other available information, the building inspector make the necessary interpretation. The person contesting the location of the boundary shall be given opportunity to appeal the building inspector's interpretation as provided in §§ 14-305--14-307, hereof. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section.

(i) When base flood elevation data has not been provided in accordance with § 14-303, then the building inspector shall require the permittee to provide for review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of § 14-306 through § 14-309. All records pertaining to the provisions of ths chapter shall be maintained in the office of the building inspector and shall be open for public inspection. (Ord. #04-05, Sept. 2004)

14-305. <u>Variance and appeal procedures</u>. (1) The town's board of zoning appeals ("board of appeals") is the designated board to hear and decide appeals and requests for variances from the requirements of this chapter.

(2) The board of appeals shall hear and decide when it is alleged there is an error in any requirement, decision, or determination made by the building inspector in the enforcement or administration of this chapter.

(3) Any person aggrieved by the decision of the appeals board or any taxpayer may appeal such decision to the appropriate court as provided in Tennessee Code Annotated.

(4) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.

(5) In passing upon appeals and variances, the board of 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 and the effect of such damage on the individual owner;

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

(e) The volume of surface water run-off on adjoining property;

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

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

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

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

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

(6) Upon consideration of the factors listed above, and the purposes of this chapter, the board of appeals decides the appeal and/or may attach such conditions to the granting of variances as it deems necessary to effect uate the purposes of this chapter.

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

(8) <u>Conditions for variances</u>. (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(b) Variances shall only be issued upon

(i) A showing of good and sufficient cause,

(ii) A determination that failure to grant the variance would result in exceptional hardship; and

(iii) 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 specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(d) The board of appeals may request from and the applicant shall furnish to the board of appeals, at the applicant's expense, all information deemed necessary by the board of appeals for the board of appeals to make its decision; and

(e) The building inspector shall maintain the records of the board of appeals and report any variances to the Federal Emergency Management Agency upon request. (Ord. #04-05, Sept. 2004)

14-306. <u>General standards for flood hazard reduction</u>. <u>General standards</u>. In all areas of special flood hazard the following provisions are required:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(4) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(5) 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;

(6) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;

(7) Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this chapter, shall meet

the requirements of "new construction" as contained in this chapter. (Ord. #04-05, Sept. 2004)

14-307. <u>Specific standards for flood hazard reduction</u>. In all areas of special flood hazard where base flood elevation data has been provided, as set forth in § 14-303 or § 14-304, the following provisions are required:

(1) <u>Residential construction</u>. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated no lower than the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided.

(2) <u>Non-residential construction</u>. New construction or substantial improvement of any commercial, industrial, or non-residential structure shall have the lowest floor, including basement, elevated no lower than the level of the base flood elevation. Structures located in A-zones may be floodproofed in lieu of elevation, provided that all areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the building inspector as set forth in § 14-304.

(3) <u>Mobile homes</u>. (a) No mobile home shall be placed in an area prone to flood, floodway or flood hazard area, except in an existing mobile home park or existing mobile home subdivision. All existing mobile home parks or subdivisions which suffer damage, requiring the repair, reconstruction or improvement of streets, utilities, and pads that equal or exceed fifty percent (50%) of the value of such facilities prior to damage, shall require that all new or replacement mobile homes meet the requirements of (c)(3) below.

(b) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(c) For new mobile home parks and subdivisions; for expansions to existing mobile home parks and subdivisions; for existing mobile home parks and subdivisions where the repair, reconstruction or improvement has commenced; and, for mobile homes not placed in a mobile home park or subdivision require:

(i) Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will not be less than two (2) feet above the base flood level;

(ii) Adequate surface drainage and access for a hauler are provided, and;

(iii) In the instance of elevation on pilings:

(A) Lots are large enough to permit steps;

(B) Pilings foundations are placed in stable soil no more than ten (10) feet apart; and

(C) Reinforcement is provided for pilings more than six (6) feet above the ground level.

(4) <u>Floodways</u>. Located in areas of special flood hazard established in § 14-303 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:

(a) Prohibit encroachments, including fill, excavation, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided to the building inspector demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;

(b) If (a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 14-306--14-309.

(c) Prohibit the placement of any mobile homes, except in an existing mobile home park or existing mobile home subdivision. (Ord. #04-05, Sept. 2004)

14-308. <u>Standards for streams without established base flood</u> <u>elevations and/or floodways</u>. Located within the areas of special flood hazard established in § 14-303 where small streams exist but where no base flood data has been provided or where no floodway has been provided, the following provisions apply:

(1) No encroachments, including fill material or structures shall be located within a distance of the stream bank equal to two (2) times the width of the stream at the top of bank or twenty (20) feet each side from top of bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) New construction or substantial improvements of structures shall be elevated or floodproofed in accordance with elevations established in accordance with § 14-304. (Ord. #04-05, Sept. 2004)

14-309. <u>Other standards</u>. (1) <u>Subdivision proposals</u> shall meet all requirements of the town planning commission and its <u>Subdivision Regulations</u>, including the following criteria:

(a) All subdivision proposals shall be consistent with the need to minimize flood damage;

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards and surface water run-off to adjoining properties; and

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of fifty (50) lots or five (5) acres.

(2) <u>Standards for areas of shallow flooding (AO Zones)</u>. Located within the areas of special flood hazard established in § 14-303 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor including basement shall be elevated, at least two (2) feet above the highest adjacent grade.

(b) All new construction and substantial improvements of non-residential structures shall:

(i) Have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade, or;

(ii) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

14-310. <u>Guidelines and forms</u>. (1) The building inspector, with the town administrator's consent, shall develop guidelines for applicants, permittees, surveyors, and/or engineers to assist them in complying with the provisions of this chapter.

(2) The building inspector shall prepare the form for the application for a building permit and the form of the building permit shall be consistent with the provisions of other state and town requirements and this chapter.

Change 1, July 9, 2012

(3) This ordinance shall not be construed to require a property owner to apply for a permit only to excavate or fill on their property, unless such work meets the definitions of "new construction" or "substantial improvement" under this section. (Ord. #04-05, Sept. 2004, as amended by Ord. #05-11, Aug. 2005)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS²

SECTION

15-101. Motor vehicle requirements.

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

¹Municipal code reference

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

²State law references

Under <u>Tennessee Code Annotated</u>, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by <u>Tennessee Code Annotated</u>, § 55-10-401; failing to stop after a traffic accident, as prohibited by <u>Tennessee Code Annotated</u>, § 55-10-101, <u>et seq</u>.; driving while license is suspended or revoked, as prohibited by <u>Tennessee Code Annotated</u>, § 55-50-504; and drag racing, as prohibited by <u>Tennessee Code Annotated</u>, § 55-10-501.

- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-122. Delivery of vehicle to unlicensed driver, etc.

15-101. <u>Motor vehicle requirements</u>. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by <u>Tennessee Code</u> <u>Annotated</u>, title 55, chapter 9.

15-102. <u>Driving on streets closed for repairs, etc</u>. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose.

15-103. <u>Reckless driving</u>. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property.

15-104. <u>**One-way streets**</u>. 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.

15-105. <u>Unlaned streets</u>. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the 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. **15-106.** <u>Laned streets</u>. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary.

15-107. <u>Yellow lines</u>. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street.

15-108. <u>Miscellaneous traffic control signs, etc</u>.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the town unless otherwise directed by a police officer.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic.

15-109. <u>General requirements for traffic control signs, etc.</u> Pursuant to <u>Tennessee Code Annotated</u>, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the <u>Tennessee Manual on Uniform Traffic Control Devices for Streets and</u> <u>Highways</u>,² and shall be uniform as to type and location throughout the town.

15-110. <u>Unauthorized traffic control signs, etc</u>. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or

¹Municipal code references

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

²For the latest revision of the <u>Tennessee Manual on Uniform Traffic</u> <u>Control Devices for Streets and Highways</u>, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, <u>et seq</u>.

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.

15-111. <u>Presumption with respect to traffic control signs, etc</u>. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper town authority.

15-112. <u>School safety patrols</u>. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals.

15-113. <u>Driving through funerals or other processions</u>. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.

15-114. <u>Clinging to vehicles in motion</u>. 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.

15-115. <u>Riding on outside of vehicles</u>. 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.

15-116. <u>Backing vehicles</u>. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

15-117. <u>Projections from the rear of vehicles</u>. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place

of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle.

15-118. <u>Causing unnecessary noise</u>. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle.

15-119. <u>Vehicles and operators to be licensed</u>. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Classified and Commercial Driver License Act of 1988."

15-120. <u>Passing</u>. 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.

15-121. <u>Motorcycles, motor driven cycles, motorized bicycles,</u> <u>bicycles, etc</u>. (1) <u>Definitions</u>. 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.

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

(1) <u>Definitions</u>. (a) "Adult" shall mean any person eighteen years of age or older.

(b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(e) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the Town of Chapel Hill 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.

EMERGENCY VEHICLES

SECTION

- 15-201. Authorized emergency vehicles defined.
- 15-202. Operation of authorized emergency vehicles.
- 15-203. Following emergency vehicles.
- 15-204. Running over fire hoses, etc.

15-201. <u>Authorized emergency vehicles defined</u>. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police.

15-202. <u>Operation of authorized emergency vehicles</u>.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

- (2) The driver of an authorized emergency vehicle may:
 - (a) Park or stand, irrespective of the provisions of this title;
- (b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - (c) Exceed the maximum speed limit so long as life or property is not thereby endangered; and
 - (d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle may be equipped with or display a red light only in combination with a blue light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of the driver's own reckless disregard for the safety of others.

¹Municipal code reference

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

15-203. <u>Following emergency vehicles</u>. No driver of any vehicle other than one on official business shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

15-204. <u>Running over fire hoses, etc</u>. 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.

SPEED LIMITS

SECTION

15-301. In general.15-302. At intersections.15-303. In school zones.

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

15-302. <u>At intersections</u>. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets.

15-303. <u>In school zones</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 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.

TURNING MOVEMENTS

SECTION

- 15-401. Generally.
- 15-402. Right turns.
- 15-403. Left turns on two-way roadways.
- 15-404. Left turns on other than two-way roadways.
- 15-405. U-turns.

15-401. <u>Generally</u>. Every driver who intends to turn, or partly turn from a direct line, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal required in <u>Tennessee Code Annotated</u>, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

15-402. <u>**Right turns</u>**. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway.</u>

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 such center line where it enters the intersection, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

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.

15-405. <u>U-turns</u>. U-turns are prohibited.

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic control signals generally.
- 15-508. At flashing traffic control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

15-501. <u>Upon approach of authorized emergency vehicles</u>.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the applicable laws of this state, or of a police vehicle making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.</u>

15-502. <u>When emerging from alleys, etc</u>. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

15-503. <u>To prevent obstructing an intersection</u>. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed.

¹Municipal code reference

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

15-504. <u>At railroad crossings</u>. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad, and shall not proceed until that driver can do so safely. The foregoing requirements shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(b) A crossing gate is lowered or when a human flagger gives or continues to give a signal of the approach or passage of a railroad train;

(c) A railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; and

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

15-505. <u>At "stop" signs</u>. The driver of a vehicle facing a "stop" sign shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, except when directed to proceed by a police officer or traffic control signal.

15-506. <u>At "yield" signs</u>. (1) The driver of a vehicle who is faced with a yield sign at the entrance to a through highway or other public roadway is not necessarily required to stop, but is required to exercise caution in entering the highway or other roadway and to yield the right-of-way to other vehicles which have entered the intersection from the highway or other roadway, or which are approaching so closely on the highway or other roadway as to constitute an immediate hazard, and the driver having so yielded may proceed when the way is clear.

(2) Where there is provided more than one (1) lane for vehicular traffic entering a through highway or other public roadway, if one (1) or more lanes at such entrance are designated a yield lane by an appropriate marker, this section shall control the movement of traffic in any lane so marked with a yield sign, even though traffic in other lanes may be controlled by an electrical signal device or other signs, signals, markings or controls.

15-507. <u>At traffic control signals generally</u>. Whenever traffic is controlled by traffic control signals exhibiting the words "Go," "Caution," or

"Stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and the terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) <u>Green alone, or "Go"</u>:

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either 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) <u>Yellow alone, or "Caution", when shown following the green or "Go"</u> <u>signal</u>:

(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 the signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) <u>Red alone, or "Stop"</u>:

(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. A right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car shall come to a full and complete stop before turning and that the turning car shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, such turn will not endanger other traffic lawfully using the intersection. A right turn on red shall be permitted at all intersections, except those that are 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) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(c) A left turn on a red or stop signal shall be permitted at all intersections within the town where a one-way street intersects with another one-way street moving in the same direction into which the left turn would be made from the original one-way street. Before making such a turn, the prospective turning car shall come to a full and complete stop and shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with the traffic signal so as not to endanger traffic lawfully using the intersection. A left turn on red shall be permitted at any applicable intersection except that clearly marked by a "No Turn of Red" sign, which may be erected by the town at intersections which the town decides requires no left turns on red in the interest of traffic safety.

(4) <u>Steady red with green arrow</u>:

(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) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(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 at the signal.

15-508. <u>At flashing traffic control signals</u>. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(a) <u>Flashing red (stop signal)</u>. When a red lens is illuminated with intermittent flashes, and the light is clearly visible for a sufficient distance ahead to permit such stopping, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) <u>Flashing yellow (caution signal)</u>. When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code.

15-509. <u>At pedestrian control signals</u>. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place, such signals shall indicate as follows:

(1) <u>Walk</u>. Pedestrians facing such signals 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) <u>Wait or Don't Walk</u>. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

15-510. <u>Stops to be signaled</u>. Every driver operating a motor vehicle who intends to stop such vehicle, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give the signal required in <u>Tennessee Code Annotated</u>, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.

15-601. <u>Generally</u>. 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.

15-602. <u>Angle parking</u>. 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 (24) feet.

15-603. <u>Occupancy of more than one space</u>. 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.

15-604. <u>Where prohibited</u>. 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 <u>Tennessee Code Annotated</u>, title 55, chapter 21.

15-605. <u>Loading and unloading zones</u>. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone.

15-606. <u>Presumption with respect to illegal parking</u>. 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.

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Deposit of driver license in lieu of bail.
- 15-707. Violation and penalty.

15-701. <u>Issuance of traffic citations</u>.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the 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.</u>

15-702. <u>Failure to obey citation</u>. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued.

15-703. <u>Illegal parking</u>. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation.

¹Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 3.

State law reference

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

15-704. <u>Impoundment of vehicles</u>. 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, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been affixed to the vehicle and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of.

15-705. <u>Disposal of abandoned motor vehicles.</u> "Abandoned motor vehicles," as defined in <u>Tennessee Code Annotated</u>, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of <u>Tennessee Code Annotated</u>, §§ 55-16-103 through 55-16-109.

15-706. Deposit of driver's license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this town in answer to such charge before said court.

(2) <u>Receipt to be issued</u>. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the town court, and shall state such period of validity on its face.

(3) <u>Failure to appear - disposition of license</u>. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of <u>Tennessee Code Annotated</u>, § 55-50-801, <u>et seq</u>.

15-707. <u>Violation and penalty</u>. Any violation of this <u>title</u> shall be a civil offense punishable as follows:

(1) <u>Traffic citations</u>. Traffic citations shall be punishable by a civil penalty not to exceed the state authorized maximum for each separate offense.

(2) <u>Parking violations excluding handicapped parking</u>. Fines for parking violations shall be as provided by resolution of the board of mayor and aldermen.

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. EXCAVATIONS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Violations and penalty.

16-101. <u>**Obstructing streets, alleys, or sidewalks prohibited**</u>. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials.

16-102. <u>**Trees projecting over streets, etc., regulated**</u>. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet.

16-103. <u>**Trees, etc., obstructing view at intersections prohibited**</u>. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons

¹Municipal code reference

Motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection.

16-104. <u>Projecting signs and awnings, etc., restricted</u>. 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

16-105. <u>Banners and signs across streets and alleys restricted</u>. 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.

16-106. <u>Gates or doors opening over streets, alleys, or sidewalks</u> <u>prohibited</u>. 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.

16-107. <u>Littering streets, alleys, or sidewalks prohibited</u>. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes.

16-108. <u>Obstruction of drainage ditches</u>. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way.

16-109. <u>Abutting occupants to keep sidewalks clean, etc</u>. 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.

16-110. <u>**Parades, etc., regulated**</u>. 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.

16-111. <u>Animals and vehicles on sidewalks</u>. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any

¹Municipal code reference

Building code: title 12, chapter 1.

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.

16-112. <u>Fires in streets, etc</u>. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk.

16-113. <u>Violations and penalty</u>. Violations of this chapter shall subject the offender to a penalty not to exceed state authorized maximums.

CHAPTER 2

EXCAVATIONS

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. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Violation and penalty.

16-201. <u>Permit required</u>. 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.

16-202. <u>Applications</u>. Applications for such permits shall be made to the town 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 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 town recorder within twenty-four (24) hours of its filing.

16-203. <u>Fee</u>. The fee for such permits shall be as provided by resolution of the board of mayor and aldermen .

16-204. <u>Deposit or bond</u>. No such permit shall be issued unless and until the applicant therefor has deposited with the town recorder a cash deposit. The deposit shall be sufficient to 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 town 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 town recorder a surety bond in such form and amount as the town recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration.

16-205. <u>Safety restrictions on excavations</u>. 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.

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 town 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.

16-207. <u>**Insurance**</u>. 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

16-6

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 town recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$250,000 for each accident, and for property damages not less than \$85,000 for any one (1) accident.

16-208. <u>Time limits</u>. 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 town recorder.

16-209. <u>Supervision</u>. 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.

16-210. <u>Violation and penalty</u>. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense.

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE STORAGE AND COLLECTION.

CHAPTER 1

REFUSE STORAGE AND COLLECTION

SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Refuse collection fees.
- 17-110. Violations and penalty.

17-101. <u>Refuse defined</u>. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith.

17-102. <u>Premises to be kept clean</u>. 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.

17-103. <u>Storage</u>. 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

¹Municipal code reference

Property maintenance regulations: title 13.

17-2

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.

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.

17-105. <u>Disturbing containers</u>. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose.

17-106. <u>Collection</u>. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the board of mayor and aldermen shall designate. Collections shall be made regularly in accordance with an announced schedule.

17-107. <u>Collection vehicles</u>. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys.

17-108. <u>**Disposal**</u>. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited.

17-109. <u>Refuse collection fees</u>. Refuse collection fees shall be at such rates as are from time to time set by the board of mayor and aldermen by resolution.¹

17-110. <u>Violations and penalty</u>. Violations of this chapter shall subject the offender to a penalty not to exceed the state authorized maximum. Each day a violation is allowed to continue shall constitute a separate offense.

¹Administrative resolutions are of record in the office of the town recorder.

TITLE 18

WATER AND SEWERS¹

CHAPTER

- 1. WASTEWATER DISPOSAL.
- 2. WATER.
- 3. WATER AND SEWER SERVICE OUTSIDE TOWN LIMITS.
- 4. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

WASTEWATER DISPOSAL

SECTION

- 18-101. Purpose and policy.
- 18-102. Definitions.
- 18-103. Requirements for proper wastewater disposal.
- 18-104. Physical connection to public sewer.
- 18-105. Inspection of connections.
- 18-106. Maintenance of building sewers.
- 18-107. Private domestic wastewater disposal.
- 18-108. Regulation of holding tank waste disposal.
- 18-109. Applications for domestic wastewater discharge and industrial wastewater discharge permits.
- 18-110. Discharge regulations.
- 18-111. Industrial user monitoring, inspection reports, records access, and safety.
- 18-112. Enforcement and abatement.
- 18-113. Fees and billing.

18-101. Purpose and policy. This chapter sets uniform requirements for collection, treatment and disposed of water in the service area of the Town of Chapel Hill, Tennessee and its objectives are:

(1) To protect the public health;

(2) To provide problem free wastewater collection and treatment service;

(3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, will cause the town's discharge to violate its National Pollutant Discharge

¹Municipal code reference

Building and plumbing codes: title 12.

Elimination System (NPDES) permit or other applicable state requirements, or which will cause physical damage to the wastewater treatment system facilities;

(4) To provide for full and equitable distribution of the cost of the wastewater treatment system;

(5) To enable the Town of Chapel Hill to comply with the provisions of the Federal Clean Water Act, the General Pretreatment Regulations (40 CFR part 403), and other applicable federal and state laws and regulations;

(6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

This chapter provides that all persons in the service area of the Town of Chapel Hill must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system. The chapter also provides for issuance of permits to system users, for regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for setting of fees full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the Town of Chapel Hill, Tennessee, and to persons outside the town who are, by contract or agreement with the town users of the municipal wastewater treatment system. Except as otherwise provided herein, the water and sewer superintendent of the Town of Chapel Hill shall administer, implement, and enforce the provisions of this chapter. (Ord. #26, March 1988)

18-102. <u>Definitions</u>. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, <u>et seq</u>.

(2) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vicepresident, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard

laboratory procedure, five (5) days at twenty degrees (20°) centigrade expressed in terms of weight and concentration (milligrams per liter [mg/l]).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(6) "Categorical standards." National Categorical pretreatment standards or pretreatment standard.

(7) "City." The Town of Chapel Hill or the Board of Mayor and Aldermen, of Chapel Hill, Tennessee.

(8) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(9) "Compatible pollutant" shall mean BOD, suspended solids, pH, and fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in this town's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(10) "Cooling water." The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(11) "Control authority." The term "control authority" shall refer to the "approval authority," defined hereinabove; or the superintendent if the town has an approved pretreatment program under the provisions of 40 CFR, 403.11.

(12) "Customer" means any individual, partnership, corporation, association, or group who receives sewer service from the town under either an express or implied contract requiring payment to the town for such service.

(13) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(14) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(15) "Environmental Protection Agency," or "EPA." The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(16) "Garbage" shall mean solid wastes from any domestic, commercial, or industrial source.

(17) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes.

(18) "Grease interceptor." An interceptor whose rated flow is 50 g.p.m. or less and is generally located inside the building.

(19) "Grease trap." An interceptor whose rated flow is 50 g.p.m. or more and is located outside the building.

(20) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(21) "Incompatible pollutant" shall mean any pollutant which is not a "compatible pollutant" as defined in this section.

(22) "Indirect discharge." The discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(23) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act (33 U.S.C. 1342).

(24) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(25) "Interference." The interference or disruption of the municipal wastewater treatment processes or operations which contributes to a violation of any requirement of the town's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 40 CFR 503, rule 1200-14, Solid Waste Processing and Disposal, the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(26) "Local administrative officer." The chief administrative officer of the local hearing authority.

(27) "Local hearing authority." The board of mayor and aldermen or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-112.

(28) "National Categorical Pretreatment Standard" or "pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

(29) "NPDES (National Pollutant Discharge Elimination System)" shall mean the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Federal Water Pollution Control Act as amended.

(30) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307 (c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the federal register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(31) "O&M." Operations and maintenance.

(32) "Person." Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(33) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(34) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(35) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical substances, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(36) "Pretreatment" or "treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alternation can be obtained by physical, chemical, or biological processes, or process changes other means, except through dilution as prohibited by 40 CFR section 403.6(d).

(37) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

(38) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the town. This definition includes any sewers that convey wastewaters to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewater to the POTW from persons outside the town who are, by contract or agreement with the town, users of the town's POTW.

(39) "POTW treatment plant." The portion of the POTW designed to provide treatment to wastewater.

(40) "Shall" is mandatory; "may" is permissive.

(41) "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than

five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(42) "State." State of Tennessee.

(43) "Standard Industrial Classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(44) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(45) "Storm sewer" or "storm drain" shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(46) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(47) "Superintendent." The person designated by the town to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(48) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA (307 (a)) or other Acts.

(49) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(50) "User." Any person who contributes, causes or permits the contribution of wastewater into the town's POTW.

(51) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(52) "Wastewater treatment systems." Defined the same as POTW.

(53) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof. (Ord. #26, March 1988, modified)

18-103. <u>Requirements for proper wastewater disposal</u>. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the Town of Chapel Hill, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the town of any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in § 18-103(5) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer in the service area, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within sixty (60) days after the date of official notice to do so.

(5) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(6) Where a public sanitary sewer is not available under the provisions of § 18-103(4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-107 of this chapter. (Ord. #26, March 1988)

18-104. <u>Physical connection to public sewer</u>. (1) Sewer service connection. The town is required to construct a sewer line to the nearest point on an owner's property line. The owner is responsible, at owner's expense, for extending the sewer service, including septic tank and service line to the building in accordance with town's specifications.

(2) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent as required by § 18-109 of this chapter.

(3) 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.

(4) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(5) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others must be sealed to the specifications of the superintendent.

(6) Building sewers shall conform to the following requirements:

(a) The minimum size of a building sewer shall be four (4) inches;

(b) The minimum depth of a building sewer shall be eighteen (18) inches;

(c) Small diameter gravity sewer septic tank effluent pump;

(d) Four (4) inch building sewers shall be laid on a grade greater than one-eighth (1/8) inch per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two (2) feet per second.

(e) Slope and alignment of all building sewers shall be neat and regular.

(f) Building sewers shall be constructed only of

(i) Polyvinyl chloride pipe with solvent welded or with rubber compression joints;

(ii) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or

(iii) Such other materials of equal or superior quality as may be approved by the superintendent. Under no circumstances will cement mortar joints be acceptable.

(g) A cleanout shall be located five (5) feet outside of the building, one (1) as it crosses the property line and one (1) at each change of direction of the building sewer which is greater than forty-five (45) degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of six (6) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches.

(h) Connections of building sewers to the public sewer system shall be made only by authorized personnel and made only of the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sewer and installing a tee-saddle or tee-insert of a type approved by the superintendent or his designee. All such connections shall be made gastight and watertight.

(i) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of one-eighth (1/8) inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a step or grinder pump and discharged to the building sewer at the expense of the owner.

(j) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or to the procedures set forth in appropriate specifications of the ASTM and Water Environment Federation Manual of Practice FD-5. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(k) An installed building sewer shall be gastight and watertight.

(7) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(8) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (Ord. #26, March 1988, as amended by Ord. #98-4, June 1998, modified)

18-105. <u>Inspections of connections</u>. (1) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered by the superintendent or his authorized representative.

(2) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative. (Ord. #26, March 1988) 18-106. <u>Maintenance of building sewers</u>. (1) Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the town. Owners failing to maintain or repair building sewers or who allow storm water to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer services.

(2) All commercial customers or users of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the superintendent to meet specifications of the city. Commercial customers or users shall mean any customer or user, other than a residential dwelling. (Ord. #04-07, Nov. 2004, modified)

18-107. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-103(4), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to one-eighth (1/8) inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in §§ 18-103 through 18-106, the owner shall provide a private sewage pumping station as provided in § 18-104(5)(h).

(c) Where a public sewer becomes available (abutting the property), the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the town to do so.

(2) <u>Requirements</u>. (a) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the superintendent stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the town and Marshall County Health Department.

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the town and Marshall County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the town and Marshall County Health Department.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the town and Marshall County Health Department. They shall be allowed to inspect the work at any stage of construction and the owner shall notify the town and Marshall County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the town and Marshall County Health Department.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Environment and Conservation of the State of Tennessee and the town and Marshall County Health Department. No septic tank or cesspool shall be permitted to surface discharge.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.

(f) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the town and Marshall County Health Department. (Ord. #26, March 1988, modified)

18-108. <u>Regulation of holding tank waste disposal</u>. (1) <u>Permit</u>. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the superintendent to perform such acts or services. Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

(2) <u>Fees</u>. For each permit issued under the provisions of this chapter, the applicant shall either agree in writing to the provisions of this section or pay an annual service charge to the town to be set as specified in § 18-114. Any such permit granted shall be for one full fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three inch permanent figures on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) <u>Designated disposal locations</u>. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and

it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated.

(4) <u>Revocation of permit</u>. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excrete disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excrete disposal systems within the service area of the Town of Chapel Hill.

(5) <u>Trucked in waste</u>. The superintendent may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the operation of the POTW. (Ord. #26, March 1988, modified)

18-109. <u>Applications for domestic wastewater discharge and</u> <u>industrial wastewater discharge permits</u>. (1) <u>Applications for discharge of</u> <u>domestic wastewater</u>. All users or prospective users which generate domestic wastewater shall make written application to the superintendent for connection to the POTW. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the municipal sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with §§ 18-103 through 18-106 of this chapter and an inspection has been performed by the superintendent or his representative.

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

(2) <u>Industrial wastewater discharge permits</u>. (a) <u>General</u> <u>requirements</u>. All industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall make application for a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) <u>Applications</u>. Applications for wastewater discharge permits shall be required as follows:

(i) Users required to obtain a wastewater discharge permit shall complete and file with the superintendent an application on the form prescribed by the superintendent, and accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within sixty (60) days after the effective date of this chapter, and proposed new users shall apply at least sixty (60) days prior to connecting to or contributing to the POTW.

(ii) The application shall be in the prescribed form of the town.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the superintendent for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter.

(iv) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this subsection, "pretreatment standard," shall include either a National Pretreatment Standard or a pretreatment standard imposed by § 18-110 of this chapter.

(v) The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the town of a prospective customer's application for wastewater discharge permit shall not obligate the town to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the town's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the town to the applicant of such service.

(vii) The superintendent will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the superintendent that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days writing of such action. (c) <u>Permit conditions</u>. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the town.

(i) Permits shall contain the following:

- (1) Statement of duration;
- (2) Provisions of transfer;

(3) Effluent limitations on volume, concentration, and time of discharge, based on 40 CFR 403, categorical standards, local limits, and state and local law;

(4) Self-monitoring, sampling, reporting, notification, record keeping, identification of pollutants to be monitored, sampling location, sampling frequency, sample type;

(5) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(6) Prohibition of bypasses.

(ii) Permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Effluent limitations on volume, concentration, and time of discharge;

(C) Requirements for installation and maintenance of inspections and sampling facilities;

(D) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;

(E) Compliance schedules;

(F) Requirements for submission of technical reports of discharge reports;

(G) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording town access thereto;

(H) Requirements for notification of the town of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.

(I) Requirements for notification of slug discharged and spill control plan;

(J) Effluent mass loading restrictions;

(K) Other conditions as deemed appropriate by the town to ensure compliance with this chapter.

(d) Permit modifications. Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the superintendent within one hundred eighty (180) days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by 18-109(2)(b)(ii) and 18-109(b)(iii). The terms and conditions of the permit may be subject to modification by the superintendent during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) <u>Permits duration</u>. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) <u>Permit transfer</u>. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) <u>Revocation of permit</u>. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation;

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;

(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; a change in strength, volume, or timing of discharges; an addition or change in process lines generating wastewater;

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) <u>Confidential information</u>. All information and data on a user obtained from reports, questionnaire, permit application, permits and monitoring programs and from inspections shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the superintendent that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the town's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the superintendent as confidential shall not be transmitted to any governmental agency or to the general public by the superintendent until and unless prior and adequate notification is given to the user. (Ord. #26, March 1988, modified)

18-110. <u>Discharge regulations</u>. (1) <u>General discharge prohibitions</u>. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW, residential, commercial, or industrial, whether or not the user is subject to National Categorical Pretreatment Standards or any other national, state, or local pretreatment standards or requirements. Violations of general and specific prohibitions may result in discontinuance of water and/or sewer service and other fines as provided in § 18-112. A user may not contribute the following substances to any POTW:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over twenty percent (20%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the town, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half (½) inch in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(d) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(e) Any trucked or hauled pollutants except at discharge points designated by the POTW.

(f) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(g) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance, hazard to life, and are sufficient to prevent entry into the sewers for maintenance and repair.

(h) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, 40 CFR 503 guidelines or regulations, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(i) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.

(j) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(k) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40° C (104° F).

(l) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "sludge" as defined herein.

(n) Any water containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two (32) or one hundred fifty (150) degrees F (0 and 65° C).

(q) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) <u>Restrictions on wastewater strength</u>. No person or user shall discharge wastewater which exceeds the following set of standards provided in Table B--Plant Protection Criteria, unless specifically allowed by their discharge permit local limits (Table A--User Discharge Restrictions) unless an exception is permitted as provided in this chapter. Dilution of any wastewater discharge

for the purpose of satisfying these requirements shall be considered in violation of this chapter.

(3) <u>Fats, oils and grease traps and interceptors</u>.

(a) Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) <u>Fat, oil, grease, and food waste</u>. (i) <u>New construction and</u> <u>renovation</u>. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) <u>Existing structures</u>. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) <u>Implementation of plan</u>. After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan within a reasonable amount of time;

(B) Service and maintain the equipment in order to prevent adverse impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) <u>Sand, soil, and oil interceptors</u>. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors

shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) <u>Laundries</u>. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids 1/2 inch or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) <u>Control equipment</u>. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the <u>Standard Plumbing Code</u> and Tennessee Department of Environment and Conservation engineering standards. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the town is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the town. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the town has under this chapter, or state or federal law.

The town retains the right to inspect and approve installation of control equipment.

(f) The superintendent may use industrial wastewater discharge permits to regulate the discharge of fat, oil and grease.

Pollutant	Daily Average* Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l)
Antimony	5.0	8.0
Arsenic	1.0	1.5
Cadmium	1.0	1.5
Chromium (total)	4.0	7.0
Copper	3.0	5.0
Cyanide	1.0	2.0
Lead	1.0	1.5

Table A--User Discharge Restrictions

Mercury	0.1	0.2
Nickel	3.0	4.5
Pesticides & Herbicides	BDL**	1.0
Phenols	10.0	15.0
Selenium	1.0	1.5
Silver	1.0	1.5
Surfactants, as MBAS	25.0	50.0
Zinc	3.0	5.0

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

(4) <u>Protection of treatment plant influent</u>. The superintendent shall monitor the treatment works influent for each parameter in the following table. (Table B--Plant Protection Criteria). Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by this table, the superintendent shall initiate technical studies to determine the cause of the influent violation and shall recommend to the town the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The superintendent shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

Maximum Concentration mg/l Maximum (24 Hour Flow) Instantaneous Proportional Concentration (mg/l) Parameter (Composite Sample) (Grab Sample) Aluminum dissolved (AL) 3.00 6.0 Antimony (Sb) 0.501.0 Arsenic (As) 0.06 0.12Barium (Ba) 2.505.0Boron (B) 0.40.8 Cadmium (Cd) 0.004 0.008 Chromium Hex 0.06 0.12Cobalt (Co) 0.03 0.06 Copper (Cu) 0.16 0.32 Cyanide (CN) 0.03 0.06 Fluoride (F) 0.6 1.2

Table B--Plant Protection Criteria

18-21

Iron (Fe)	3.0	6.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.1	0.2
Mercury (Hg)	0.025	0.05
Nickel (Ni)	0.15	0.30
Pesticides & Herbicides	.001	.002
Phenols	1.00	2.0
Selenium (Se)	0.01	0.02
Silver (Ag)	0.05	0.1
Sulfide	25.0	40.0
Zinc (Zn)	0.3	0.6
Total Kjeldahl Nitrogen	45.00	90.00
(TKN)		
Oil & Grease	50.00	100.00
MBAS	5.00	10.0
BOD	250	500
COD	500	1400
Suspended Solids	250	700

BDL=Below Detectable Limits

(5) <u>Federal categorical pretreatment standards</u>. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under the chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12.

(6) <u>Right to establish more restrictive criteria</u>. No statement in this chapter is intended or may be construed to prohibit the superintendent from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency.

(7) <u>Special agreements</u>. Nothing in this section shall be construed so as to prevent any special agreement or arrangement between the town and any user of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable. The making of such special agreements or arrangements between the town and the user shall be strictly limited to the capability of the POTW to handle such wastes without interfering with unit operations or sludge use and handling or allowing the pass through of pollutants which would result in a violation of the NPDES permit. No special agreement or arrangement may be made without documentation by the industry of the use of good management practice in the reduction of wastewater volume and strength.

(8) <u>Exceptions to discharge criteria</u>. (a) <u>Application for exception</u>. Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria listed in subsections (1) and (2) of this section. Exceptions can be granted according to the following guidelines.

The superintendent shall allow applications for temporary exceptions at any time. However, the superintendent shall not accept an application if the applicant has submitted the same or substantially similar application within the preceding year and the same has been denied by the town.

All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered by the town in its review of the application.

(b) <u>Conditions</u>. All exceptions granted under this subsection shall be temporary and subject to revocation at any time by the superintendent upon reasonable notice.

The user requesting the exception must demonstrate to the superintendent that he is making a concentrated and serious effort to maintain high standards of operation control and housekeeping levels, etc., so that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that compliance with stated concentration and quantity standards is technically or economically infeasible and the discharge, if excepted, will not:

(i) Interfere with the normal collection and operation of the wastewater treatment system;

(ii) Limit the sludge management alternatives available and increase the cost of providing adequate sludge management;

(iii) Pass through the POTW in quantities and/or concentrations that would cause the POTW to violate its NPDES permit.

The user must show that the exception, if granted, will not cause the discharger to violate its inforce federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations.

A surcharge shall be applied to any exception granted under this subsection. These surcharges shall be applied for that concentration of

the pollutant for which the variance has been granted in excess of the concentration stipulated in this chapter based on the average daily flow of the user.

(c) <u>Review of application by the superintendent</u>. All applications for an exception shall be reviewed by the superintendent. If the application does not contain sufficient information for complete evaluation, the superintendent shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the superintendent to correct such deficiencies. This thirty (30) day period may be extended by the town upon application and for just cause shown. Upon receipt of a complete application, the superintendent shall evaluate same within thirty (30) days and shall submit his recommendations to the town at its next regularly scheduled meeting.

(d) <u>Review of application by the town</u>. The town shall review and evaluate all applications for exceptions and shall take into account the following factors:

(i) Whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in section VII and grant an exception only if such exception may be granted within limitations of applicable federal regulations;

(ii) Whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of section 307(a) of the Act (33 U.S.C. 1317), and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations;

(iii) Whether or not the granting of an exception would create conditions that would reduce the effectiveness of the treatment works taking into consideration the concentration of said pollutant in the treatment works' influent and the design capability of the treatment works;

(iv) The cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive costs alone shall not be the basis for granting an exception;

(v) The age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge;

(vi) The process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge; (vii) The engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge.

(9) <u>Accidental discharges</u>. (a) <u>Protection from accidental discharge</u>. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from inplant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Spill control plan and additional facilities may be required of any industrial user. Detailed plans showing the facilities and operating procedures shall be submitted to the superintendent before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) <u>Notification of accidental discharge</u>. Any person causing or suffering from any accidental discharge shall immediately notify the superintendent (or his designated official) in person or by telephone to enable countermeasures to be taken by the superintendent to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve the user of liability for any expense loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) <u>Notice to employees</u>. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. In lieu of placing notices on bulletin boards, the users may submit an approved SPIC. Each user shall annually certify to the superintendent compliance with this paragraph. (Ord. #26, March 1988, modified)

18-111. <u>Industrial user monitoring, inspection reports, records</u> <u>access, and safety</u>. (1) <u>Monitoring facilities</u>. The installation of a monitoring facility shall be required for all industrial users having wastes which receive pretreatment, are otherwise altered or regulated before discharge, or are unusually strong and thereby subject to a surcharge. Monitoring facility shall be a manhole or other suitable facility approved by the superintendent.

When, in the judgment of the superintendent, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the superintendent may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the superintendent, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The superintendent may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the superintendent's requirements and all applicable local agency construction standards and specifications.

(2)Inspection and sampling. The town shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility. The superintendent or his representatives shall have no authority to inquire into any manufacturing process beyond that point having

a direct bearing on the level and sources of discharge to the sewers, waterways, or facilities for waste treatment.

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

(4) <u>Periodic compliance reports</u>. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent by the end of the months of March and September, or according to permit requirements, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.

(b) The superintendent may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (a) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR, part 136 and amendments thereto. Sampling shall be performed in accordance with the techniques approved by the superintendent.

(5) <u>Maintenance of records</u>. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

(a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;

- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of such analyses.

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

(6) <u>Safety</u>. While performing the necessary work on private properties, the superintendent or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the town employees and the town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) <u>New sources</u>. New sources of discharges to the POTW shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) <u>Reporting violations</u>. If sampling performed by the industrial user indicates effluent violations the user must notify the pretreatment coordinator within twenty-four (24) hours of becoming aware of the violation and repeat the analysis within thirty (30) days of becoming aware of the violation, unles the POTW has monitored between the sample date and the day when the results of the violation were received, or if the POTW monitors at least once per month, or if the user is on a monthly sample schedule. (Ord. #26, March 1988, modified) **18-112.** <u>Enforcement and abatement</u>. (1) <u>Complaints; notification</u> <u>of violation; orders</u>.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the pretreatment program of the town or orders of the local hearing authority issued pursuant thereto has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation thereof, may order that necessary corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the person or persons named therein request by written petition a hearing before the local hearing authority as provided in § 18-112(2), no later than thirty (30) days after the date such order is served; provided, that the local hearing authority may review such final order on the same grounds upon which a court of the state may review default judgments.

Notification of violation. (iv) Notwithstanding the provisions of subsections (i) through (iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the town or its agent may serve upon said user a written notice of violation. Within fifteen (15) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the pretreatment coordinator. 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 town to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. When the local administrative officer finds that a user (b)(i) has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one of the following orders. These orders shall not be prerequisite to taking

any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time stated, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) <u>Cease and desist order</u>. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take such remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) <u>Consent order</u>. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) <u>Emergency order</u>. (1) Whenever the local administrative officer 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 local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take such emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the local administrative officer in meeting the emergency.

(ii) Appeals from orders of the local administrative

Any user affected by any order of the local (A) administrative officer in interpreting or implementing the provisions of this chapter, may file with the local administrative officer a written request for reconsideration within thirty (30) days of such order, setting forth in detail the facts supporting the user's request for reconsideration.

If the ruling made by the local administrative (B) unsatisfactory to the person requesting officer is reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration.

Except as otherwise expressly provided, any notice, (c)complaint, order or other instrument issued by or under authority of this section may be served on any person affected thereby personally, by the local administrative officer or any person designated by the local administrative officer, or such service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

Hearings. (a) Any hearing or rehearing brought before the local (2)hearing authority shall be conducted in accordance with the following:

Upon receipt of a written petition from the alleged (i) violator pursuant to this subsection, the local administrative officer 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 local administrative officer and the petitioner agree to a postponement;

(ii) The hearing herein provided may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting in order to conduct the hearing herein provided;

A verbatim record of the proceedings of such hearings (iii) shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made pursuant to subdivision (a)(vi). The transcript so recorded shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

officer.

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of the county in which the pretreatment agency is located shall have jurisdiction upon the application of the local hearing authority or the local administrative officer 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 by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority 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 alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the chair;

(vii) The decision of the local hearing authority shall become final and binding on all parties unless appealed to the courts as provided in subsection (b); and

(viii) Any person to whom an emergency order is directed pursuant to § 18-112(1) shall comply therewith immediately, but on petition to the local hearing authority shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) days from the receipt of such petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party, including the pretreatment agency, who is or may be adversely affected thereby, to the chancery court pursuant to the common law writ of certiorari set out in <u>Tennessee Code Annotated</u>, § 27-8-101, within sixty (60) days from the date such order or determination is made.

(c) <u>Show cause hearing</u>. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user which causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place

for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) <u>Violations--civil penalty</u>. (a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) per day for each day during which the act or omission continues or occurs:

(1) Unauthorized discharge, discharging without a permit;

(2) Violates an effluent standard or limitation;

(3) Violates the terms or conditions of a permit;

(4) Fails to complete a filing requirement;

(5) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(6) Fails to pay user or cost recovery charges; or

(7) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any civil penalty shall be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of such assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of such 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;

(D) In assessing the civil penalty the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator; and

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of <u>Tennessee Code Annotated</u>, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by <u>Tennessee Code Annotated</u>, § 69-3-115(a) shall not exceed ten thousand dollars (\$10,000) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the town resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on such judgment. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgment in the amount of the assessment.

(5) <u>Judicial proceedings and relief</u>. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In such action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) <u>Termination of discharge</u>. In addition to the revocation of permit provisions in § 18-109(2)(g) of this chapter, any user that violates the following conditions, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination.

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-110 of this chapter.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) <u>Disposition of damage payments and penalties--special fund</u>. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

18-113. <u>Fees and billing</u>. (1) <u>Purpose</u>. It is the purpose of this chapter to provide for the equitable recovery of costs from user's of the town's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) <u>Types of charges and fees</u>.¹ The charges and fees as established in the town's schedule of charges and fees, may include, but not be limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for application for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees;
- (e) Industrial wastewater discharge permit fees;
- (f) Fees for industrial discharge monitoring; and

(g) Other fees as the town may deem necessary to carry out the requirements of this chapter.

(h) Each person, firm, association or corporation desiring a permit pursuant to § 18-108(1) hereof, shall pay an annual permit fee due January 1 of each year. The permit fee shall accompany each application submitted between January 1 and June 30 and a partial permit fee shall accompany each application submitted between July 1 and December 31. In addition to the annual permit fee, the permittee shall pay an inspection fee prior to cleaning out, draining, or flushing of holding tank.

(3) <u>Fees for applications for discharge</u>. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-109 of this chapter.

(4) <u>Inspection fee and tapping fee</u>. An inspection fee and tapping fee for a building sewer installation shall be paid to the town's sewer department

¹Charges and fees are provided by resolution of the board of mayor and aldermen and are of record in the office of the recorder.

at the time the application is filed. Fees shall cover the costs of inspecting new and/or existing plumbing within subject building establishments as well as inspection of building sewers, property sewers, and sewer service lines and connections to the public sewers. The inspection fee and tapping shall be set by the board of mayor and aldermen.

The inspection and tapping fee shall be two thousand five hundred dollars (\$2,500.00) per water/sewer tap for a standard water three-fourths inch (3/4") tap. In addition to the tap fee, the applicant must also reimburse the town for the actual cost of connecting to the water/sewer line, including all materials, labor, equipment (including but not limited to meters), and the cost of boring, if necessary, before service is provided. The cost for larger taps may be higher and will be set by resolution of the board.

The inspection fee for all non-residential uses shall be calculated based upon the number of design units of the proposed use multiplied by the estimated flow (in gallons per day) divided by the equivalent dwelling units (or three hundred fifty (350)) multiplied by the standard tap fee. (Design units x flow (GPD)/350 x tap fee). The estimated flow for EDUs and design units are based upon the design basis for new sewage works accepted by the TDEC and is set out in Exhibit A.¹

(5) <u>Sewer user charges</u>. The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) <u>Surcharge fees</u>. Users who contribute wastewater in strengths which exceed that of domestic wastewater will be subject to surcharges according to calculations by the superintendent. Surcharges will effect the increased cost of treating high-strength waste.

(7) <u>Industrial wastewater discharge permit fees</u>. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-109 of this chapter.

(8) <u>Fees for industrial discharge monitoring</u>. Fees may be collected from industrial user's having pretreatment or other discharge requirements to compensate the town for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(9) <u>Excessive water use</u>. (a) Use over fifteen thousand (15,000) gallons of water per month. That in addition to the water and sewer rates already in place, all water and sewer customers of the town that use in excess of fifteen thousand (15,000) gallons of water in any billing period, shall be charged an additional one dollar (\$1.00) for water and one dollar (\$1.00) for sewer use, per one thousand (1,000) gallons for each gallon of water over fifteen thousand (15,000) gallons consumed in that billing period.

¹A copy of Exhibit A is available in the office of the recorder.

(b) Use over thirty thousand (30,000) gallons of water per month. That in addition to the water and sewer rates already in place, all water and sewer customers of the town that use in excess of thirty thousand (30,000) gallons of water in any billing period, shall be charged an additional two dollars (\$2.00) for water and two dollars (\$2.00) for sewer use, per one thousand (1,000) gallons for each gallon of water over thirty thousand (30,000) gallons consumed in that billing period. (Ord. #26, March 1988, as amended by Ord. #03-02, _____, modified, and amended by Ord. #05-13, Sept. 2005, Ord. #05-17, Nov. 2005, Ord. #06-01, Feb. 2006, Ord. #08-12, Nov. 2008, and Ord. #09-06, Sept. 2009)

CHAPTER 2

WATER

SECTION

- 18-201. Connection to water system required.
- 18-202. Connection charges.
- 18-203. Maintenance and repairs.
- 18-204. Water/sewer main extensions.
- 18-205. Reconnection fee after business hours.

18-201. <u>Connection to water system required</u>. All dwellings located within the Town of Chapel Hill, Tennessee are required to connect to the municipal water system and are required to use the municipal water system as their sole source of water within said dwelling. Nothing herein shall prohibit the use of well water for agricultural, fire suppression or other uses outside of their dwelling. (Ord. #04-09, Oct. 2004)

18-202. <u>Connection charges</u>. Service lines will be laid by the town from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the town. Before a new water/sewer line will be laid by the town, the applicant shall pay a nonrefundable connection charge of two thousand five hundred dollars (\$2,500.00) per connection plus the actual cost of connecting to the sewer line, including all materials and equipment, including meters, and the cost of boring, if necessary. (as added by Ord. #05-17, Nov. 2005, and amended by Ord. #06-01, Feb. 2006)

18-203. <u>Maintenance and repairs</u>. Once a service line is complete and connected, the town shall be responsible for maintenance, repairs and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the town. The remaining portion of the service line beyond the meter box shall belong to and be the responsibility of the customer. The town shall make necessary repairs to its line to restore the condition of said line to the same or better condition, using comparable materials. The town will also attempt to restore the condition of any property affected by maintenance and repairs as best as possible. The town shall not be responsible for any damages to private property caused by the break of a water/sewer line or the subsequent repair unless the town is determined to have been negligent or directly responsible for such damages. (as added by Ord. #05-17, Nov. 2005)

18-204. <u>Water/sewer main extensions</u>. Persons desiring water/sewer main extensions must pay all of the cost of such extensions. All such extensions

Change 1, July 9, 2012

shall be installed by town employees or contractors of the town in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee. Notwithstanding any other provision in this code, all water main extensions that intersect with town streets or roads shall be constructed by boring under such roads, unless a variance is approved by the board of mayor and alderman allowing a street to be cut or excavated. (as added by Ord. #05-17, Nov. 2005)

18-205. <u>Reconnection fee after business hours</u>. The fee to reconnect water service to any customer during business hours shall be forty dollars (\$40.00); the fee to reconnect water service after business hours shall remain fifty dollars (\$50.00). These fees may be amended by the board of mayor and aldermen by resolution. (as added by Ord. #08-09, Nov. 2008)

CHAPTER 3

WATER AND SEWER SERVICE OUTSIDE TOWN LIMITS

SECTION

18-301. Water and sewer service.18-302. Rates and charges.

18-301. <u>Water and sewer service</u>. (1) No future water or sewer service of the town may be connected or served to property outside the limits of the town until the following conditions are met:

(a) All persons owning an interest in the property to be connected with or served by water or sewer service of the town must petition the town for annexation;

(b) If buildings are to be constructed on the property to be connected with or served by water or sewer service of the town, the construction must be in compliance with standard building codes adopted by the town, town's zoning ordinances, town's subdivision regulations and town's water and sewer use ordinances;

(c) A building permit must be obtained from the town as if the property were located within the town;

(d) All persons having an interest in the property must agree in writing to annexation of the property at a later date;

(e) Once the agreement has been accepted by the town's board of mayor and aldermen, construction may proceed although annexation and rezoning has not been completed.

(2) Where town water or sewer lines are adjacent to property with an existing building, residence, business or structure outside the town's limits, the town administrator shall have authority, after consultation with the town's planning commission, to contract with the property owner for water or sewer service without annexation, provided the property is served by one (1) tap for each service and no additional buildings, residences, businesses or structures are constructed on the property; and, further provided, that the property owner agrees in writing to annexation at a later date upon the initiative of the town or others.

(3) All agreements with property owners shall bind the owners, their successors and assigns, the property and run with the land.

(4) The town's planning commission and board of mayor and aldermen shall make a determination as to annexation in the ordinary course of the town's business and in compliance with town ordinances and state laws applicable thereto. If the town elects not to annex the property, owners' agreement shall remain in effect and binding with regard to the property and development thereof in accordance with the agreement. (Ord. #01-12, Oct. 2001) 18-302. <u>Rates and charges</u>. The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system outside the town's limits.¹

 $^{^1 \}rm Such$ rates are reflected in administrative resolutions, which are of record in the office of the recorder.

CHAPTER 4

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-401. Definitions.
- 18-402. Standards.
- 18-403. Construction, operation, and supervision.
- 18-404. Statement required.
- 18-405. Inspections required.
- 18-406. Right of entry for inspections.
- 18-407. Correction of existing violations.
- 18-408. Use of protective devices.
- 18-409. Unpotable water to be labeled.
- 18-410. Violations.

18-401. <u>Definitions</u>. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(2) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(3) "Cross-connection." Any physical arrangement whereby the public water supply is connected directly or indirectly with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

(4) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(5) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(6) "Public water supply." The waterworks system furnishing water to the Town of Chapel Hill for general use and which supply is recognized as the

¹Municipal code reference

Building and plumbing codes: title 12. Wastewater disposal: title 18, chapter 1.

public water supply by the Tennessee Department of Environment and Conservation. (Ord. #28, June 1988, modified)

18-402. <u>Standards</u>. The Town of Chapel Hill Public Water Supply is to comply with <u>Tennessee Code Annotated</u>, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (Ord. #28, June 1988)

18-403. <u>Construction, operation, and supervision</u>. It shall be unlawful for any person to cause a cross connection, auxiliary intake, bypass, or additional interconnection to be made; or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the Superintendent of the Water Department of the Town of Chapel Hill or his designated representative. (Ord. #28, June 1988, modified)

18-404. <u>Statement required</u>. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the Superintendent of the Water Department of the Town of Chapel Hill a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (Ord. #28, June 1988)

18-405. <u>Inspections required</u>. It shall be the duty of the Superintendent of the Town of Chapel Hill Public Water Supply to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the Superintendent of the Water Department of the Town of Chapel Hill and as approved by the Tennessee Department of Environment and Conservation. (Ord. #28, June 1988, modified)

18-406. <u>Right of entry for inspections</u>. The superintendent of the water department or authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems thereof for

cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (Ord. #28, June 1988)

18-407. <u>Correction of existing violations</u>. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the Superintendent of the Water Department of the Town of Chapel Hill.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the <u>Tennessee Code Annotated</u>, § 68-221-711, within a reasonable time and within the time limits set by the superintendent shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the superintendent shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross-connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (Ord. #28, June 1988, modified)

18-408. <u>Use of protective devices</u>. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

(1) Impractical to provide an effective air-gap separation.

(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the superintendent, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply.

(3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected.

The Superintendent of the Water Department of the Town of Chapel Hill, or his designated representative, shall require the use of an approved protective

device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Environment and Conservation as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the Superintendent of the Water Department of the

Town of Chapel Hill prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

The department shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the superintendent or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where only one unit is installed and the continuance of service is critical, the superintendent of the water department shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. These repairs shall be made by qualified personnel, acceptable to the Superintendent of the Water Department of the Town of Chapel Hill.

The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the superintendent. (Ord. #28, June 1988, modified)

18-409. <u>Unpotable water to be labeled</u>. The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background. (Ord. #28, June 1988)

18-410. <u>Violations</u>. The requirements contained herein shall apply to all premises served by the town water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the town to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be subject to a penalty not to exceed the state authorized maximum, and each day of continued violation after conviction shall constitute a separate offense. In addition to the foregoing fines and penalties, the Superintendent of the Water Department of the Town of Chapel Hill shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass, or inter-connection, and service shall not be restored until such cross-connection, auxiliary intake, by-pass, or inter-connection has been discontinued. (Ord. #28, June 1988, modified)

TITLE 19

ELECTRICITY AND GAS

CHAPTER 1. GAS.

CHAPTER 1

$\underline{\mathbf{GAS}}^1$

SECTION

19-101. Gas.

19-101. <u>Gas</u>. The gas franchise agreement is for twenty-five (25) years. (as added by Ord. #09-07, Sept. 2009)

 $^{^1 \}rm Ord.$ #09-07, which comprises the gas franchise agreement, is available in the recorder's office.

TITLE 20

MISCELLANEOUS

[RESERVED FOR FUTURE USE]

20-2