THE

ARLINGTON

MUNICIPAL

CODE

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

October 2005

TOWN OF ARLINGTON, TENNESSEE

MAYOR

Russell Wiseman

VICE MAYOR

Harry McKee

ALDERMEN

Glen Bascom
Oscar Brooks
Hugh Lamar
Gerald McGee
Brian Thompson

RECORDER

Cathy Durant

PREFACE

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

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

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

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 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 Nancy Gibson, Program Resource Specialist and Linda Dean, the MTAS Administrative Specialist is gratefully acknowledged.

Steve Lobertini
Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

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

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

TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.
5. MUNICIPAL SCHOOL SYSTEM.
6. OFFICE OF TOWN ADMINISTRATOR.

---

[1]Charter references

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

Municipal code references

Fire department: title 7.
Shelby County codes applicable within town: § 12-101.
Utilities: title 18.
Wastewater treatment: title 18.
Zoning: title 14.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN[1]

SECTION

1-101. Time and place of regular meetings.
1-102. Order of business.
1-103. General rules of order.
1-104. Composition and terms.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 6:30 P.M. on the first Monday of each month at the town hall. (1994 Code, § 1-101, as amended by Ord. #2008-15, Feb. 2009)

1-102. Order of business. 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.

(2) Roll call by the recorder.

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

(4) Grievances from citizens.

(5) Communications from the mayor.

---

[1]Charter references

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

City Administrator: § 6-4-101.
Compensation: § 6-3-109.
Duties of Mayor: § 6-3-106.
Election of the board: § 6-3-101.
Oath: § 6-3-105.
Ordinance procedure
Publication: § 6-2-101.
Readings: § 6-2-102.
Residence requirements: § 6-3-103.
Vacancies in office: § 6-3-107.
Vice-Mayor: § 6-3-107.

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

(7) Old business.

(8) New business.

(9) Bills presented.

(10) Adjournment. (1994 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and 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. (1994 Code, § 1-103, modified)

1-104. Composition and terms. (1) The town hereby establishes six (6) "at large" positions numbered one (1) through six (6) for the office of aldermen.

(2) In accordance with the provisions of Tennessee Code Annotated, § 6-3-102(b)(3), the terms of the office of the aldermen are changed from nonstaggered four (4) year terms to staggered four (4) year terms as follows:

(a) The six (6) aldermen elected at the town election in September 1999 for a term of four (4) years, and shall complete their terms of office.

(b) The six (6) positions for aldermen shall be "at large" positions numbered one (1) through six (6), as determined to be lawful.

(c) The three (3) aldermen elected for "at large" positions one (1) through three (3) in the next municipal election shall be elected for a term of four (4) years, expiring on the date of the town election in September 2007 or when their successors are elected and qualified.

(d) The three (3) aldermen elected for "at large" positions four (4) through six (6) in the next municipal election shall be elected for a term of two (2) years, expiring on the date of the town election in September 2007 or when their successors are elected and qualified.

(e) Beginning with the town election in September 2005 and each and every two (2) years thereafter, the term of office of the aldermen shall be four (4) years, or until their successors are elected and qualified.

(f) If numbered positions are determined to be unlawful then those three (3) aldermen receiving the most votes should be elected for a term of four (4) years and the remaining three (3) elected aldermen shall serve for a term of two (2) years.

(3) In accordance with Tennessee law, the Town of Arlington, Tennessee, shall restrict candidates from running for more than one (1) municipal office in any single election as well as require that any elected official whose term has not expired first resign his/her elected position prior to taking the oath of office for another elected municipal office, thus preventing any one

(1) person from ever holding two (2) elected municipal offices simultaneously. This restriction shall take effect for the next municipal election to be held in the Town of Arlington, Tennessee. (Ord. #2002-06, Nov. 2002, as amended by Ord. #2009-11, Jan. 2010)

CHAPTER 2

MAYOR[1]

SECTION
1-201. Generally supervises town's affairs.
1-202. To be bonded.

1-201. Generally supervises town's affairs. The mayor shall have general supervision of all town affairs and shall perform the duties provided in the town charter.[2] (1994 Code, § 1-201)

1-202. To be bonded. The mayor shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the governing body. (1994 Code, § 1-202)

---

[1]Charter references
For charter provisions related to the mayor, see Tennessee Code Annotated, title 6, chapter 3. For specific charter provisions related to the mayor, see the following sections:
Vacancies in office: § 6-3-107.
Vice-Mayor: § 6-3-107.

[2]Charter reference
Duties of Mayor: § 6-3-106.

CHAPTER 3

RECORDER[1]

SECTION

1-301. To be bonded.
1-302. To keep minutes, etc.
1-303. To perform general administrative duties, etc.

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the governing body. (1994 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1994 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the town which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the town shall provide. (1994 Code, § 1-303)

---

[1]Charter references
Recorder: § 6-4-201 et seq.
Recorder as treasurer: § 6-4-401(c).
Recorder as judge: § 6-4-301(b)(1)(C).

CHAPTER 4

CODE OF ETHICS

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

1-401. Applicability. This chapter is the code of ethics for personnel of the town. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #2006-13, Dec. 2006)

1-402. Definition of "personal interest." (1) For purposes of §§ 3 and 4, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #2006-13, Dec. 2006)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #2006-13, Dec. 2006)

1-404. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #2006-13, Dec. 2006)

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #2006-13, Dec. 2006)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #2006-13, Dec. 2006)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #2006-13, Dec. 2006)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #2006-13, Dec. 2006)

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #2006-13, Dec. 2006)

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

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #2006-13, Dec. 2006)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #2006-13, Dec. 2006)

CHAPTER 5

MUNICIPAL SCHOOL SYSTEM

SECTION

1-501. Municipal school board.

1-501. Municipal school board. (1) A municipal school board for the Town of Arlington shall be established in compliance with applicable state law.

(2) The municipal school board for the Town of Arlington shall consist of five (5) members to be elected from the municipality at large.

(3) In order to be eligible to be a member of the municipal school hoard for the Town of Arlington, one must be a citizen of the State of Tennessee, have achieved a high school diploma or GED and filed documentation satisfactory to the Shelby County Election Commission evidencing same, have attained the age of eighteen (18) years at the time of their election, be a resident and qualified voter of the Town of Arlington, resided within the municipality for at least one (1) year preceding the election, and otherwise meet all other requirements of applicable state law at the time one seeks election.

(4) All elections for the municipal school board for the Town of Arlington shall be conducted on a non-partisan basis.

(5) No member of the governing body of the Town of Arlington shall be eligible for election as a member of the municipal school board for the Town of Arlington.

(6) The initial terms for members of the municipal school board for the Town of Arlington shall vary in length, provided that all subsequently elected members, other than members appointed to fill a vacancy, shall be elected to four-year terms, with members elected to even numbered positions for an initial term of one (1) year and ten (10) months and members elected to odd numbered positions for an initial term of three (3) years and ten (10) months, as follows:

(a) POSITION 1: Initial three (3) year and ten (10) month term
(b) POSITION 2: Initial one (1) year and ten (10) month term
(c) POSITION 3: Initial three (3) year and ten (10) month term
(d) POSITION 4: Initial one (1) year and ten (10) month term
(e) POSITION 5: Initial three (3) year and ten (10) month term

(7) Members of the municipal school board for the Town of Arlington may succeed themselves.

(8) Vacancies occurring on the municipal school board for the Town of Arlington shall be filled by the board of mayor and aldermen by appointment of a person who would be eligible to serve as a member of the municipal school board, with such member to serve until a successor is elected and qualifies according to applicable law, the successor to be elected at the next general election for which candidates have sufficient time to qualify under applicable law.

(9) The initial municipal school board for the Town of Arlington shall take office on the first day of the first month following certification of the results of the election to select the members of the initial municipal board. (as added by Ord. #2013-09, Aug. 2013)

CHAPTER 6

OFFICE OF TOWN ADMINISTRATOR

SECTION

1-601. Office of town administrator created.
1-602. Appointment of town administrator.
1-603. Duties.
1-604. Absence.

1-601. Office of town administrator created. The office of town administrator is hereby created which shall be administered by a full time administrator. (as added by Ord. #2015-08, Aug. 2015)

1-602. Appointment of town administrator. The board of mayor and aldermen shall appoint the town administrator to serve either at their pleasure or under contract. (as added by Ord. #2015-08, Aug. 2015)

1-603. Duties. The town administrator shall perform the following duties subject to the directions and approval of the board of mayor and aldermen:

(1) Administer the business of the town;

(2) Make recommendations to the board for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the town;

(3) Keep the board fully advised as to the conditions and needs of the town;

(4) Report to the board the condition of all property, real and personal, owned by the town and recommend repairs or replacements as needed;

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

(6) Recommend specific personnel positions, as may be required for the needs and operations of the town, and propose personnel policies and procedures for approval of the board;

(7) Attend all meetings of the board at their request;

(8) Prepare the agenda for the board meetings;

(9) Prepare the annual budget and capital programs for all funds, including estimates, recommendations and appropriation ordinances and submit same to the Board for their adoption by ordinance;

(10) Responsible for maintaining property and liability insurance;

(11) Supervising and coordinates all administrative activities of each department;

(12) Execute the directions of the board by instructing department heads accordingly and by periodic follow-up;

(13) Make recommendations to the board on policies and procedures for an efficient business-like operation of town government;

(14) Consult and cooperate with committees of the board in the administration of the town's affairs;

(15) Represent the town at official functions;

(16) Employ, promote, discipline, suspend and discharge all employees and department heads, in accordance with personnel policies and procedures, if any, adopted by the board;

(17) Act as purchasing agent for the municipality in the purchase of all materials, supplies and equipment for the proper conduct of the municipality's business; provided, that all purchases shall be made in accordance with policies, practices and procedures established by the board; and

(18) Perform such other duties as may from time to time be designated or required by the board. (as added by Ord. #2015-08, Aug. 2015)

1-604. Absence. The board may designate an officer or employee of the town as acting town administrator for the purpose of carrying out the duties and responsibilities of the position of town administrator in the event of a vacancy in the positions or the temporary absence or disability of the town administrator. (as added by Ord. #2015-08, Aug. 2015)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3

MUNICIPAL COURT

[RESERVED FOR FUTURE USE]

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER
1. SOCIAL SECURITY.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
3. MISCELLANEOUS PROVISIONS.
4. TRAVEL POLICY.

CHAPTER 1

SOCIAL SECURITY

SECTION
4-101. Policy and purpose as to coverage.
4-102. Necessary agreements to be executed.
4-103. Withholdings from salaries or wages.
4-104. Appropriations for employer's contributions.
4-105. Records to be kept and reports to be made.
4-106. Exclusions.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the Town of Arlington, to provide for all eligible employees and officials in the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age sand survivors insurance. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations. (1994 Code, § 1-601)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1994 Code, § 1-602)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1994 Code, § 1-603)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1994 Code, § 1-604)

4-105. Records to be kept and reports to be made. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1994 Code, § 1-605)

4-106. Exclusions. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the Town of Arlington, or any employee, official, or position not authorized to be covered under applicable state or federal laws or regulations. (1994 Code, § 1-606)

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM[1]

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.

4-201. Title. This chapter shall provide authority for re-establishing and administering the Occupational Safety and Health Program Plan for the employees of the Town of Arlington. (Ord. #2003-04, June. 2003, as replaced by Ord. #2016-03, May 2016)

4-202. Purpose. The Town of Arlington, 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 department heads, 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.

---

[1]The Appendices for the Occupational Safety and Health Program for the Town of Arlington are included in this municipal code as 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. (Ord. #2003-04, June. 2003, as replaced by Ord. #2016-03, May 2016)

4-203. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the Town of Arlington shall apply to all employees of each administrative department, boards, commission, division, or other agency of the Town of Arlington whether part-time or full-time, seasonal or permanent. (Ord. #2003-04, June. 2003, as replaced by Ord. #2016-03, May 2016)

4-204. Standards authorized. The occupational safety and health standards adopted by the Town of Arlington 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.[1] (Ord. #2003-04, June. 2003, as replaced by Ord. #2016-03, May 2016)

4-205. Variances from standards authorized. The Town of Arlington 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 Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the Town of Arlington 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

---

[1]1State law reference

Tennessee Code Annotated, title 50, chapter 3.

designated by the Town of Arlington shall be deemed sufficient notice to employees. (Ord. #2003-04, June. 2003, as replaced by Ord. #2016-03, May 2016)

4-206. Administration. For the purposes of this chapter, the fire chief is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the town safety program. 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. (Ord. #2003-04, June. 2003, as replaced by Ord. #2016-03, May 2016)

4-207. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Town of Arlington. (Ord. #2003-04, June. 2003, as replaced by Ord. #2016-03, May 2016)

CHAPTER 3

MISCELLANEOUS PROVISIONS

SECTION

4-301. Pecuniary interests.
4-302. Political activity.
4-303. Strikes and unions.
4-304. Holiday leave.
4-305. Vacation leave.
4-306. Sick leave.
4-307. Employment prohibitions.

4-301. Pecuniary interests. (1) No officer or employee shall have any financial interests in the profits of any contracts, service or other work performed by the town; nor shall personally profit directly or indirectly from any contract, purchase, sale of service between the town and any person or company; or personally or as an agent provide any surety, bail or bond required by law or subject to approval by the town board.

(2) No officer or employee shall accept any free or preferred services, benefits or concessions from any person or company for the performance of an act required or expected from him in the regular course of his duties; nor shall any officer or employee accept directly or indirectly, any gift, gratuity or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to town business. (1994 Code, § 1-801)

4-302. Political activity. Employees in the classified service may individually exercise their right to vote and privately express their political views as citizens. However, no employee shall actively participate in the town political campaign while on duty. (1994 Code, § 1-802)

4-303. Strikes and unions. No employee shall participate in any strike against the town, or join, or be a member of, or solicit any employee to join any labor union which authorizes strikes by town employees. (1994 Code, § 1-803)

4-304. Holiday leave. The following days shall be observed as legal holidays by employees: New Year's Day, Martin Luther King's Birthday, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, employee's birthday, Thanksgiving (2 days) and Christmas (2 days). Additional holidays may be granted by the town board from time to time as they deem advisable. When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday shall be observed as designated by the mayor. Where possible, every employee shall be given approved holidays. When an employee must work on one of these holidays due to his regular work schedule, he shall

receive equivalent time off or, if necessary, double pay for time worked. When an employee's regular day off is on one of these holidays, he shall receive equivalent time off or, if necessary, regular pay for the holiday. In all cases, the department head shall attempt to arrange working schedules to permit time off for the holidays in preference to extra pay. This section shall not apply to firemen whose regular working shifts exceed eight (8) hours; such firemen shall be paid at the rate of one-half (1/2) working shift for each holiday within the working cycle in which they occur whether or not he is scheduled to work. (1994 Code, § 1-804, as amended by Ord. #2008-10, Dec. 2008, Ord. #2009-02, April 2009, and Ord. #2015-02, April 2015)

4-305. Vacation leave. Vacation leave shall be granted to all full-time employees according to numbers of years of service for each completed month of service (see chart in current personnel policy) and may be accrued to a maximum of twenty (20) working days. Employees shall accrue vacation leave from their employment date, but shall not be entitled to take such leave until they have completed their Trial Employment Period. Vacation leave may be taken as earned subject to approval of the department head who shall schedule vacations so as to meet the operational requirements of the department. Terminated employees will receive payment for accrued vacation/sick as of the date of termination not to exceed twenty (20) days. Vacation shall be charged in not less than one-half (1/2) day increments. This section shall not apply to firemen whose regular working shifts exceed eight (8) hours; such firemen shall be granted vacation leave according to numbers of years of service per month (see chart in current Personnel Policy); the maximum accrual shall be ten (10) regular working shifts; and payment of accrued vacation/sick to a terminated fireman shall not exceed ten (10) regular working shifts. (1994 Code, § 1-805, as amended by Ord. #2015-02, April 2015)

4-306. Sick leave. (1) Sick leave with pay shall be granted to all full-time employees at the rate of eight (8) hours for each completed month of service and may be accrued to a maximum of seven hundred twenty (720) hours. Employees shall accrue sick leave from their employment date, but shall not be entitled to take such leave until they have completed their Trial Employment Period. Sick leave with pay may be granted for the following reasons: personal illness or physical incapacity resulting from causes beyond the employee's control; illness of a member of the employee's immediate family that requires the employee's personal care and attention; enforced quarantine of the employee in accordance with community health regulations; or to keep a doctor's appointment. Firemen shall be granted twelve (12) hours per month (1/2 working shift) and the maximum accrual shall be one thousand eighty (1,080) hours (forty-five (45) regular working shifts).

(2) Sick leave shall not be considered a right which an employee may use at his discretion, but rather a privilege. Sick leave can be taken only by the

employee who has accrued it. No accrued sick leave may be given or transferred to another employee.

(3) In order to be granted sick leave with pay, an employee must meet the following conditions: his immediate supervisor must be notified prior to the beginning of the schedule work day of the reason for absence; submit, if required by the mayor, a medical certificate signed by a licensed physician certifying that the employee has been incapacitated for work for the period of absence, the nature of the employee's sickness or injury, and that he is again physically able to perform his duties. A medical statement may be required if the period of absence is three (3) consecutive working days or longer.

(4) Sick leave may be taken as necessary, but may not be extended or overdrawn beyond the accrual at the time of absence. Provided, however, that at the request of the employee, any accrued vacation balance may be applied and extend as though it were sick leave. Sick leave shall be charged in not less than one (1) hour increments. (1994 Code, § 1-806, as amended by Ord. #2012-06, May 2012, and Ord. #2015-02, April 2015)

4-307. Employment prohibitions. (1) No person shall be appointed to or promoted to, or demoted or dismissed from any position in the classified service, or in any way be favored or discriminated against with respect to employment in the classified service because of race, religion, national origin, political affiliation, handicap, sex or age.

(2) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position, or demotion, or dismissal from a position in the classified service.

(3) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or to attempt to secure for any person an appointment to a position in the classified service, or any increase in wages or other advantage in employment in such position, for the purpose of influencing the vote or political action of any person, or for any other consideration.

(4) No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment or promotion, or any advantage in, a position in the classified service. Any officer or employee who violates any of the provisions of this section shall forfeit his office or position. (1994 Code, § 1-807)

CHAPTER 4

TRAVEL POLICY

SECTION

4-401. Enforcement.
4-402. Policy.
4-403. Reimbursement rate schedule.
4-404. Administrative procedures.

4-401. Enforcement. The mayor of the town or his or her designee shall be responsible for the enforcement of these travel regulations. (1994 Code, § 1-901)

4-402. Policy. (1) In the interpretation and application of this ordinance, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this ordinance. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on town business, unless the person(s) otherwise qualifies as an authorized traveler under this ordinance.

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

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the town for registration fees, air fares, meals, lodging, conferences, and similar expenses. Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the town. It will be the responsibility of the mayor or his designee to initiate action to recover any undocumented travel advances. The alderman in charge of finance shall initiate action to recover undocumented travel advances drawn by the mayor.

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

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

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

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

(b) Actual, reasonable, and necessary under the circumstances. The mayor may make exceptions for unusual circumstances. Approval by the alderman in charge of the finance committee is required for mayor's expenses considered unusual.

Expenses considered excessive won't be allowed.

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

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

(9) Mileage and motel expenses incurred within the town aren't ordinarily considered eligible expenses for reimbursement. (1994 Code, § 1-902)

4-403. Reimbursement rate schedule.

(1) Personal vehicle (Current federal rate)

(2) Meals per day (Current federal rate)

For portion of day as follows:

Breakfast	$ 6.50
Lunch	8.00
Dinner	17.50

(3) Lodging

(a) Cost of single rate in officially designated hotel.

(b) As approved by mayor or his/her designee (alderman in charge of finance in case of mayor). (1994 Code, § 1-903, as amended by Ord. #2001-03, March 2001)

4-404. Administrative procedures. The town adopts and incorporates by reference as if fully set out herein--the administrative procedures for travel contained in the personnel rules and regulations. A copy is on file in the office of the town recorder. (1994 Code, § 1-904)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PUBLIC ADVERTISING AND COMPETITIVE BIDDING.
6. HOTEL/MOTEL TAX.

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depository for town funds.

5-101. Official depository for town funds. The following banks are hereby designated as official depositories for all town funds:

Trustmark Banking
11915 Highway 70
Arlington, TN 38002

First Citizens National Bank
5845 Airline Road
Arlington, TN 38002

First Tennessee Bank N.A.
11610 Highway 70
Arlington, TN 38002

(Ord. #1998-22, Feb. 1999, modified, as amended by Ord. #2017-10, Aug. 2017)

---

[1]Charter references

For specific charter provisions on depositories of municipal funds, see Tennessee Code Annotated, § 6-4-402.

CHAPTER 2

REAL PROPERTY TAXES

SECTION
5-201. When due and payable.
5-202. When delinquent--penalty and interest.

5-201. When due and payable. Taxes levied by the town against real property shall become due and payable annually on the first Monday of December of the year for which levied. (1994 Code, § 6-101)

5-202. When delinquent--penalty and interest. 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 follows: a penalty of one-half percent (½%) per month plus one percent (1%) interest per month for a total penalty and interest of one and one-half percent (1 1/2%) for the first month and each and every month thereafter. (1994 Code, § 6-102)

CHAPTER 3

PRIVILEGE TAXES

SECTION

5-301. Tax levied.
5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the town at the rates and in the manner prescribed by the said act. The recorder is hereby authorized to levy a collection fee as set by Tennessee Code Annotated, § 67-4-717 upon each enumerated business which is subject to the business tax for said year. The collection fee is to be paid at time of payment of the tax levied herein. Fees collected under this section shall be paid into and become part of the general fund. (1994 Code, § 6-201)

5-302. License required. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon payment of the appropriate privilege tax. (1994 Code, § 6-202)

CHAPTER 4

WHOLESALE BEER TAX

SECTION
5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.[1] (1994 Code, § 6-301)

---

[1]State law reference
Tennessee Code Annotated, 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.

CHAPTER 5

PUBLIC ADVERTISEMENT AND COMPETITIVE BIDDING

SECTION
5-501. Limits set.

5-501. Limits set. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of ten thousand dollars ($10,000.00) except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983. (1994 Code, § 1-501, as amended by Ord. #2000-01, March 2000)

CHAPTER 6

HOTEL/MOTEL TAX

SECTION

5-601. Definitions.
5-602. Authorization - rates.
5-603. Collection refund.
5-604. Remittance of tax - monthly tax return - annual audit.
5-605. Restrictions on operator.
5-606. Delinquent taxes - interest and penalty.
5-607. Records - inspection.
5-608. Administration and enforcement - remedies of taxpayers.
5-609. Disposition and deposit of proceeds.
5-610. Tax is additional tax.
5-611. Limitation on levy of tax.
5-612. Severable provisions.

5-601. Definitions. As used in this chapter unless the context otherwise requires:

(1) "Consideration" means any structure charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the room, lodging, space, or accommodation provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) "Hotel" means any structure or space, or any portion thereof which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel, or any place in which rooms, lodgings, accommodations or spaces are furnished to transients for a consideration.

(3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodging, spaces or accommodations in any hotel.

(4) "Operator" means the person operating the hotel whether as owner, lessee or otherwise and includes any governmental unit.

(5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental unit or any other group or combination acting as a unit.

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings, spaces or accommodations in a

hotel for a period of less than thirty (30) continuous days. (as added by Ord. #2016-01, March 2016)

5-602. Authorization - rates. (1) The Town of Arlington, Tennessee, is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient within its municipal boarders in accordance with the requirements of Tennessee Code Annotated, § 67-4-1425(c).

(2) The Town of Arlington, Tennessee, is authorized to and hereby levies a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this chapter. (as added by Ord. #2016-01, March 2016)

5-603. Collection refund. (1) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient, a copy thereof to be filed and retained by the operator. Such tax shall be collected by such operator from the transient and remitted to the Town of Arlington.

(2) When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected or charged, and the operator shall receive credit for the amount of such tax if previously paid or reported to the town. (as added by Ord. #2016-01, March 2016)

5-604. Remittance of tax - monthly tax return - annual audit. (1) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, or accommodations in hotels within the town to the town recorder/treasurer, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy, whether prior to, during or after occupancy, as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation due to the Town of Arlington shall be that of the operator.

(2) The town recorder/treasurer shall be responsible for the collection of such tax and shall place the proceeds of such tax in the general funds account of the town.

(3) A monthly tax return shall be filed under oath with the Town recorder/treasurer by the operator with such number of copies thereof as the town recorder/treasurer may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report

shall be developed by the town recorder/treasurer and approved by the board of mayor and alderman prior to use.

(4) The town recorder/treasurer may audit each operator in the town at least once per year and shall report on the audits made on a quarterly basis to the board of mayor and alderman. The board of mayor and alderman is hereby authorized to adopt reasonable rules and regulations for the implementation of the provisions of this chapter, including the form for such reports. (as added by Ord. #2016-01, March 2016)

5-605. Restrictions on operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (as added by Ord. #2016-01, March 2016)

5-606. Delinquent taxes - interest and penalty. (1) Taxes collected by an operator which are not remitted to the town recorder/treasurer on or before the due dates provided in § 5-604 are delinquent.

(2) An operator is liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted.

(3) Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is a violation of this chapter and shall be punishable by the civil penalty not in excess of fifty dollars ($50.00). (as added by Ord. #2016-01, March 2016)

5-607. Records - inspection. It is the duty of every operator liable for the collection and payment to the town of any tax imposed by this chapter to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax for which the operator may have been liable for the collection of and payment to the town, which records the town recorder/treasurer or his/her designee shall have the right to inspect at all reasonable times. (as added by Ord. #2016-01, March 2016)

5-608. Administration and enforcement - remedies of taxpayers.

(1) The town recorder/treasurer in administering and enforcing the provisions of this chapter has as additional powers those powers and duties with respect to collecting taxes as provided in title 67 of Tennessee Code Annotated or otherwise provided by law.

(2) Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, § 67-1-911. It is the intent of this chapter that the provisions of law which apply to the recovery of

state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this chapter; provided, the town recorder/treasurer shall possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-707, with respect to adjustment and settlement with taxpayers of all errors of taxes collected under the authority of this chapter and to direct the refunding of same.

(3) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the town recorder/treasurer under authority of this chapter shall be refunded by the town; provided, however, that any claim for such refund alleged to have been erroneously or illegally paid shall be filed with the town recorder/treasurer, supported by proper proof, within one (1) year from the date of payment, otherwise the taxpayer shall not be entitled to refund and the claim for refund shall be barred.

(4) Notice of any tax paid under protest shall be given to the town recorder/treasurer, and suit may be brought for recovery of such tax against the town administrator in his/her official capacity. (as added by Ord. #2016-01, March 2016)

5-609. Disposition and deposit of proceeds. The proceeds of the tax received by the town from the tax levied pursuant to this chapter shall be allocated to such funds as the board of mayor and alderman shall from time to time direct, in accordance with state law. (as added by Ord. #2016-01, March 2016)

5-610. Tax is additional tax. The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied. (as added by Ord. #2016-01, March 2016)

5-611. Limitation on levy of tax. The tax levied pursuant to the provisions of this chapter shall only apply in accordance with the provisions of Tennessee Code Annotated § 67-4-1425 and shall be levied only on the occupancy of hotels located within the boundaries of the town. (as added by Ord. #2016-01, March 2016)

5-612. Severable provisions. The provisions of this chapter are hereby declared to be severable. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application. (as added by Ord. #2016-01, March 2016)

TITLE 6

LAW ENFORCEMENT

CHAPTER
1. POLICE AND ARREST.

CHAPTER 1

POLICE AND ARREST[1]

SECTION
6-101. Shelby County Sheriff to enforce municipal ordinances.

6-101. Shelby County Sheriff to enforce municipal ordinances. The Shelby County Sheriff shall enforce municipal ordinances within the limits of the Town of Arlington pursuant to the above referenced state law provisions, and Tennessee Code Annotated, § 8-8-201(34) and the above referenced agreements previously entered into by and between the Town of Arlington, Shelby County, the General Sessions Court of Shelby County and the Shelby County Sheriff, which are hereby ratified and incorporated by reference as if set forth fully herein. The Town of Arlington shall file with the judge of Division 14 of the Shelby County General Sessions Court a certified copy of all ordinances of the Town of Arlington to be enforced. (Ord. #1997-15, Oct. 1997, as amended by Ord. #2007-04, May 2007).

---

[1]Municipal code reference
False emergency alarms: § 7-401.
Duties of officers to enforce traffic laws: § 15-103.
Duties of police and/or Shelby County Sheriff: § 15-102.
Shelby County codes applicable within town: § 12-101.
Traffic citations, etc.: title 15.

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER
1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. MISCELLANEOUS.
5. FIREWORKS.

CHAPTER 1

FIRE DISTRICT[2]

SECTION
7-101. Fire limits described.

7-101. Fire limits described. The fire district shall be all the area within the municipal limits of the town as such limits may change from time to time. (Ord. #2005-01, Feb. 2005)

---

[1]Municipal code references
Authority of firemen to direct traffic: § 15-105.
False emergency alarms: § 7-401.

[2]The significance of the fire district is that Shelby County Building Code, applicable in the Town of Arlington through title 12 of this code, imposes certain construction, modification and other requirements peculiar to buildings located within the fire district and prohibits hazardous occupancies within the fire district.

CHAPTER 2

FIRE CODE[1]

SECTION

7-201. Fire code adopted.
7-202. Enforcement.
7-203. Fire investigation and inspections.
7-204. Hazardous material placarded vehicles.
7-205. Automatic sprinkler system requirements.
7-206. Fire lane requirements.
7-207. Key boxes.
7-208. Security gate override.
7-209. Destruction of property.
7-210. Police powers.
7-211. Modifications.
7-212. Violations.
7-213. Use and occupancy inspection.
7-214. Vacant or abandoned structures.

7-201. Fire code adopted. (1) Pursuant to the authority granted by Tennessee Code Annotated, § 6-54-502, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, the International Fire Code, 2012 edition, as recommended by the International Code Council, is adopted by reference and included herein as a part of this code. The following Appendices of the 2012 Edition of the ICC and International Fire Code, or as locally drafted, are also adopted, but any appendix not listed in this ordinance is specifically not adopted: Appendix B-Fire-Flow requirements for Buildings as amended by this section (see amendments below), Appendix C-Fire Hydrant Locations and Distribution, Appendix D-Fire Apparatus Access Roads, Appendix I-Fire Protection Systems-Non Compliant Conditions with the following amendments:

Amendments to Appendix B

Amendment #1
B103.2 Increase is amended to insert the following words at the end of the first sentence following the word 'CONFLAGRATIONS': , present a special hazard use, or include the protection of a special hazard commodity.

---

[1]Municipal code reference
Shelby County codes applicable within town: § 12-101.

Amendment #2
Section B105 Fire-Flow requirements for building is amended to delete this section and substitute in lieu thereof the following section:

Section B105 Fire-Flow requirements for building.

B105.1 One- and two-family dwellings. The minimum fire-flow and flow duration for one- and two-family dwellings shall be as specified in TABLE B 105.1.

B105.2 Buildings other than one- and two-family dwellings. The minimum fire-flow and duration for building shall be as specified in TABLE B105.1.

Exceptions: (1) A reduction in required fire-flow of up to 30 percent is allowed when the building is provided with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2. A reduction in required fire-flow of up to 40 percent is allowed when the building is provided with an approved ESFR sprinkler system installed in accordance with this code and NFPA 13. A reduction in required fire-flow which exceeds the percentages listed above must be specifically approved by the Fire Code Official.

Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Fire Code has been filed with the town recorder and is available for public use and inspection. The fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits of the Town of Arlington.

(2) The International Fire Code is amended and changed in the following respects:

(a) Automatic sprinkler system requirements as governed in § 7-205 shall remain in place and where it conflicts with section 903 or any other section of the International Fire Code, the more stringent shall apply;

(b) Fire lane requirements as governed in § 7-206 shall remain in place and where it conflicts with section 503 or any other section of the International Fire Code, the more stringent shall apply. (Ord. #2005-01, Feb. 2005, as amended by Ord. #2015-12, Jan. 2016)

7-202. Enforcement. The fire code herein adopted by reference shall be enforced by the chief of the fire department or his authorized designee. He shall be the person identified in the fire code as the "fire official" and have the same powers as the state fire marshal as well as powers identified in the town charter. (Ord. #2005-01, Feb. 2005)

7-203. Fire investigation and inspections. The chief of the fire department or his or her duly qualified designee shall make all reasonable efforts to determine the cause of all unwanted and destructive fire that occurs within the Town of Arlington. The chief of the fire department or his or her duly qualified designee shall cause all buildings to be inspected, except the interior of private dwelling houses and all premises and public thoroughfares at least once a year to ascertain and cause to be corrected any condition that may cause a fire, subject to the standards of the aforementioned International Fire Code. (Ord. #2005-01, Feb. 2005, modified)

7-204. Hazardous material placarded vehicles. (1) No person shall operate or park any hazardous material placards vehicle within a business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of that material.

(2) Hazardous material placards shall include:

(a) Explosives;

(b) Gases;

(c) Flammable liquids;

(d) Flammable solids;

(e) Oxidizers;

(f) Poisons and etiological agents;

(g) Radioactive materials;

(h) Corrosives;

(i) Dangerous mix loads of above or other materials as regulated by the United States Department of Transportation, Materials Transportation Bureau. (Ord. #2005-01, Feb. 2005)

7-205. Automatic sprinkler system requirements. (1) An approved automatic sprinkler system shall be provided for the following new or renovated buildings or structures:

(a) Group A (Assembly): all buildings or structures five thousand (5,000) square feet gross floor area or more;

(b) Group E (Educational): all buildings or structures five thousand (5,000) square feet gross floor area or more;

(c) Group I (Institutional): all buildings or structures;

(d) Group R (Residential): all residential buildings or structures as follows:

(i) R-1 (hotel, motel, boarding houses); all buildings shall be protected in accordance with NFPA 13;

(ii) R-2 (apartments, dormitories, fraternities/sororities): all buildings in accordance with NFPA 13R up to four (4) stories in height and NFPA 13 for more than four (4) stories;

(iii) R-3 and R-4 (including one- and two-family residential dwellings): all buildings or structures five thousand (5,000) square feet gross floor area or more;

(e) Group M (Mercantile): all buildings or structures five thousand (5,000) square feet gross floor area or more;

(f) Group B (Business): all buildings or structures five thousand (5,000) square feet gross floor area or more;

(g) Group F (Factory): all buildings or structures five thousand (5,000) square feet gross floor area or more;

(h) Group S (Storage): all buildings or structures five thousand (5,000) square feet gross floor area or more;

(i) Mixed uses: all buildings or structures five thousand (5,000) square feet gross floor area or more;

(2) For the purpose of this section, occupancies shall be classified in accordance with chapter 2 of the fire code.

(3) Major renovations. (a) For the purpose of this section only, major renovation shall be defined as construction to the building that is greater than fifty percent (50%) of the estimated cost of reconstruction of the entire structure.

(b) In the event that a disagreement regarding the estimated cost percentage occurs, the building owner or his or her agent shall provide a certified appraisal of the structure and a certified construction estimate shall be furnished to the chief of the fire department or his designee upon request, as proof of compliance. Appraisal shall not include associated land cost, furnishings or decorations.

(4) Any addition to an existing building or structure which brings the gross floor area above the applicable square footage listed in subsection (1) of this section shall cause the entire building or structure to meet the requirements of that section.

(5) Any change in use and occupancy to a structure that is of a higher hazard classification as defined in the fire code and the gross square footage is above the applicable square footage as listed in subsection (1) of this section shall cause the entire building or structure to meet the requirements of that section.

(6) For the purpose of this section, only approved four (4) hour rated fire walls with properly protected openings shall be considered when calculating the gross floor area or constituting a separate building in occupancies specified in subsection (1) of this section.

(7) Where automatic sprinkler protection is determined to increase the hazard to the property or its occupants to be protected, other automatic extinguishing systems appropriate for the hazard shall be provided.

(8) Any building that is required to be equipped with a fire department connection (FDC) shall be located on the front street side of the facility. Special circumstances that would prevent this shall be reviewed and altered only by the

fire chief or his or her designee on a case by case basis. Physical location of the fire department connection (FDC) shall be determined by the following factors:

(a) Hazard classification of the facility as defined in NFPA 13:

(i) Light hazard. May be located on the surface of the structure. FDC shall be located not to exceed five (5) feet from the corner of the structure and shall not be higher than five (5) feet from finished grade nor less than eighteen (18) inches above finished grade.

(ii) Ordinary hazard. Same as light hazard.

(iii) Extra hazard. Fire department connection (FDC) shall be located a minimum of forty (40) feet from the structure.

(b) Height of structure or building.(i) Any building or structure three (3) stories or less that meets the requirements as defined in this subsection shall be permitted.

(ii) Any building or structure exceeding three (3) stories in height shall have the fire department connection (FDC) located a distance away from the structure or building at least half the height of the structure but in no case shall the distance be less than forty (40) feet.

(9) Any building that is required to be equipped with a fire department connection (FDC) for the automatic sprinkler system as described in NFPA 13, 13D, 13R shall have a reliable water supply for use by the fire department located within one hundred (100) feet of the (FDC). A reliable water supply shall mean a fire hydrant that meets Memphis Light, Gas and Water and Arlington Fire Department requirements. A reliable water supply shall be connected to the Memphis Light, Gas and Water system. For special circumstances, an alternative water supply may be proposed when connection to this system is not practical with the approval of the fire chief or his designee.

(10) Any automatic sprinkler system provided as a requirement of this section or other code requirements shall be adequately supervised as follows:

(a) The extinguishing system shall be electrically connected to a central (UL) station facility meeting the requirements of NFPA 72;

(b) Where a system may be disabled by closing of valves, interruption of power and the like, adequate supervision shall be provided to sound at least a local alarm when the system is deactivated and a trouble signal to the central station facility;

(c) Automatic sprinkler flow alarms shall be zoned to indicate a water flow and not a general fire alarm to the central station;

(d) Where building fire alarm facilities are provided, actuation of the extinguishing system shall also cause the building alarm to sound in accordance with NFPA 72;

(e) Where building fire alarm facilities are not provided, actuation of the extinguishing system shall require at least one building

alarm to sound within the facility. Alarms shall be installed in accordance with NFPA 72;

(f) Where multiple tenants are located within a building or structure, at least one alarm sounding device shall be provided for each tenant space that upon actuation of the extinguishing system shall sound an alarm to evacuate the facility. Alarms shall be installed in accordance with NFPA 72.

(11) Automatic sprinkler systems and appurtenances shall be installed, tested, inspected and maintained in accordance with National Fire Protection Standards and Tennessee Code Annotated laws.

(12) Where these requirements conflict with the Shelby County Building Code, fire code or state or federal standards, the more stringent requirement shall apply. (Ord. #2005-01, Feb. 2005)

7-206. Fire lane requirements. (1) Fire lanes shall be provided for all commercial and industrial buildings or that are set back more than one hundred fifty (150) feet from a public road or exceeds thirty (30) feet in height and are set back more than fifty (50) feet from a public road. However, nothing shall prevent modification to this requirement by the fire chief or his or her designee to impose fire lane requirements for special use facilities; such as care homes, multi-family dwellings, hazardous operation or any area that does not provide for immediate or adequate emergency access for emergency apparatus for purposes of rescue and extinguishment.[1]

(2) Fire lanes shall not be less than twenty (20) feet of unobstructed width, able to withstand live loads of fire apparatus and have a minimum of thirteen (13) feet six (6) inches of vertical clearance. An approved turnaround for fire apparatus shall be provided where the access road is a dead-end and is in excess of one hundred fifty (150) feet in length and shall comply with Table D103.4 requirements for Dead-End Fire Access Roads in Appendix D. The turnaround shall have a minimum centerline radius of forty (40) feet of pavement (50 foot of right-of-way).[2]

(3) Fire lanes shall be designated in the following manner:

---

[1]Exception: Existing buildings or structures with less than 20,000 square feet gross floor area between properly rated tenant separation walls and adequate emergency vehicle access may be continued in use without designated fire lanes.

[2]Exception: turnarounds shall be permitted for "T" or "Y" arrangements and turnaround arrangements other than a cul-de-sac, when acceptable to the fire chief or his designee.

(a) Fire lanes shall be properly marked with approved reflective type signs;

(b) Signs shall be a minimum of one (1) foot wide and one (1) and one-half (½) foot tall and shall contain the words "Fire Lane--No Parking;"

(c) Letters shall be red in color against a white background and shall be not less than two (2) inches in height;

(d) Signs shall be mounted on both sides of a pole or supporting structure, set back from the curb or roadway a minimum of one (1) foot but not more than four (4) feet. Unless conditions warrant otherwise, signs are to be positioned perpendicular to the roadway so as to be visible from both directions of the driving surface;

(e) The bottom of the signs shall be a minimum of five (5) feet above the finished grade, at the base of the sign support and shall not exceed seven (7) feet above the finished grade from the bottom of the sign;

(f) Signs are to be posted at each end of the fire lane with intermediate signs posted so as not to exceed seventy-five (75) feet between signs;

(g) Curbs along the fire lane shall be painted either red or yellow;

(h) Where fire lane lengths exceed one hundred (100) feet, the wording "Fire Lane" shall be posted on the driving surface, no further than fifty (50) feet from either end, and along the lane so as not to exceed one hundred (100) feet between such posting. The lettering shall be either red or yellow letters that are a minimum of twelve (12) inches in height, with the principal strokes of the letter not less than three (3) inches.

(4) All fire lanes shall be approved by the fire chief or his designee, pursuant to these regulations, and thereafter shall be maintained by the property owner. Designated fire lanes, or roads deemed necessary for fire department access, shall be maintained free from unnecessary obstructions at all times and are subject to frequent inspections and enforcement. Any removal of obstructing material shall be at the owner's expense.

(5) The disregard or disobedience of the instruction of signs placed in accordance with the provisions of this section by the driver of a vehicle shall be deemed prima facie evidence of violation of the law. The parking of an unattended vehicle in a fire lane, other than authorized emergency vehicles is strictly prohibited. (Ord. #2005-01, Feb. 2005, as amended by Ord. #2015-12, Jan. 2016)

7-207. Key boxes. All buildings or parts of buildings served by an internal automatic fire detection or suppression system, having a connection to a central monitoring station facility, shall be provided with a key lock box approved prior to installation by the town fire department.

(1) The key lock box shall be located:

(a) At or near the recognized public entrance, adjacent to the fire annunciator panel, on the exterior of the structure, or above the F.D.C., when occupancy is serviced by the fire sprinkler system with internal control valves and wall mounted F.D.C. locations of key lock boxes must be approved by the fire department.

(b) The key lock box shall be located at a height of not less than six (6) feet and not more than twelve (12) feet above final grade.

(c) No steps, displays, signs, or other fixtures or structure protrusions which would allow intruders to access the box without assistance shall be located under the key lock box.

(d) The key lock box shall be connected to the NFPA 72A fire alarm control panel, when such a panel is provided. Wiring shall be supervised as required in NFPA 72. Tampering with or opening of the key lock box shall produce a supervisory signal on Supervisory Zone 1. The signal will then be transmitted through NFPA 71 panel as a supervisory signal. If an NFPA 71 panel only is used, wiring shall be supervised as required in NFPA 71. Tampering with or opening of the key lock box shall produce a supervisory signal.

(2) The key lock box shall contain the keys for the following. The keys shall be labeled so as to be easily identified in the field.

(a) The main entrance door. Mixed occupancies and strip shopping center keys shall be provided only for occupancies where system control valves or fire alarm system panel exists;

(b) Alarm room (if one exists);

(c) Mechanical rooms and sprinkler control rooms;

(d) Fire alarm control rooms;

(e) Electrical rooms;

(f) Special keys to reset pull-stations of other fire protection devices;

(g) Elevator keys; and

(h) All other rooms as specified during the plans review process.

(3) The owner/operator of facilities with installed key boxes shall immediately notify the fire department and provide new keys when a lock to any area noted in subsection (2) is changed or re-keyed. (Ord. #2005-01, Feb. 2005)

7-208. Security gate override. (1) Any building or structure equipped with a security gate for the purpose of preventing unwanted traffic into areas shall be provided with a fire department override feature. The override shall be placed beside the key pad for vehicle use and shall be marked fire department access.

(2) The access for electronic controlled gate(s) for commercial properties shall be required to have no less than three (3) methods of access allowing two (2) to be electronic and one (1) manual. (SOS-Siren Operated

System, Key Control Box, and Manual Mechanism release secured by an approved padlock keyed to the jurisdiction key system.

(3) There shall not be any siren operated devices placed on gates for the purpose of avoiding subsection (2) of this section. (Ord. #2005-01, Feb. 2005, as amended by Ord. #2015-12, Jan. 2016)

7-209. Destruction of property. Firefighters shall have the power to remove or destroy any property when reasonably necessary to prevent the further spread of a fire. (Ord. #2005-01, Feb. 2005, as renumbered by Ord. #2015-12, Jan. 2016)

7-210. Police powers. Firefighters shall have and exercise the same powers as police officers in so far as reasonably necessary to accomplish the objectives of the fire department in an efficient manner. (Ord. #2005-01, Feb. 2005, as renumbered by Ord. #2015-12, Jan. 2016)

7-211. Modifications. The chief of the fire department may recommend to the board modifications of the provisions of the fire code upon application in writing by a 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 modifications when granted or allowed shall be contained in an amendment to this code or a resolution of the board. (Ord. #2005-01, Feb. 2005, as renumbered by Ord. #2015-12, Jan. 2016)

7-212. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire code hereby adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (Ord. #2005-01, Feb. 2005, as renumbered by Ord. #2015-12, Jan. 2016)

7-213. Use and occupancy inspection. Use and occupancy certificate shall be required when a business changes ownership and/or business name or occupancy type. (as added by Ord. #2015-12, Jan. 2016)

7-214. Vacant or abandoned structures. Any non-residential structure that has not been in use, or not licensed for business for three hundred

sixty-five (365) calendar days or more shall require the entire structure to be modified as necessary to meet the currently adopted Fire Code. Properly designated historic building shall be modified as defined by the adopted Fire Code. (as added by Ord. #2015-12, Jan. 2016)

CHAPTER 3

FIRE DEPARTMENT[1]

SECTION

7-301. Establishment, equipment, and membership.
7-302. Objectives.
7-303. Organization, rules, and regulations.
7-304. Records and reports.
7-305. Tenure and compensation of members.
7-306. Chief responsible for training and maintenance.
7-307. Use of equipment outside corporate limits.
7-308. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a fire department composed of both regular and volunteer personnel, to be supported and equipped from appropriations by the board of mayor and aldermen. All apparatus, equipment, and supplies shall be purchased by or through the municipality and shall be and remain the property of the municipality. The fire department shall be composed of a chief and such number of physically-fit subordinate officers and firefighters as the chief shall deem necessary, subject to conformation by the mayor or town superintendent. Ord. #2005-01, Feb. 2005)

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

(1) To prevent uncontrolled fires from starting.

(2) To prevent the loss of life and property from fire.

(3) To educate the public on means of preventing unwanted fires and preventing injuries from a variety of hazards.

(4) To confine fires to their places of origin.

(5) To extinguish uncontrolled fires.

(6) To perform such rescue work as its equipment and training of its personnel make practicable. (Ord. #2005-01, Feb. 2005)

7-303. Organization, rules, and regulations. The chief of the fire department shall establish the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (Ord. #2005-01, Feb. 2005)

---

[1]Municipal code reference
Authority to direct traffic: § 15-105

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspection, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the mayor or town superintendent at least once each month, and at the end of the year a detailed annual report shall be made. (Ord. #2005-01, Feb. 2005)

7-305. Tenure and compensation of members. The chief shall hold office so long as his/her conduct and efficiency are satisfactory to the board of mayor and town superintendent. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he/she deems such action to be necessary for the good of the department. The chief shall be subject to disciplinary action in accordance with town policy. (Ord. #2005-01, Feb. 2005)

7-306. Chief responsible for training and maintenance. The chief of the fire department, shall be fully responsible for the training of the fire personnel and for maintenance of all property and equipment of the fire department. (Ord. #2005-01, Feb. 2005)

7-307. Use of equipment outside corporate limits. Equipment of the fire department may be used outside the corporate limits under such conditions as the board of mayor and aldermen shall prescribe, provided that legal agreements have been reached and enacted that allow such use in other municipalities and/or governmental entities. (Ord. #2005-01, Feb. 2005)

7-308. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, and shall be subject to the directions of the commissioner of commerce and insurance in the execution of the provisions thereof. (Ord. #2005-01, Feb. 2005)

CHAPTER 4

MISCELLANEOUS

SECTION

7-401. False emergency alarms.
7-402. Service fees for non-residents.

7-401. <u>False emergency alarms</u>. (1) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(a) "False emergency alarms." Any signal actuated by an emergency alarm to which fire department personnel respond that is not the result of fire or other actual emergencies and/or not caused by a violent act of nature.

(b) "Owner" and/or "operator." A person or persons who reside in or operates a business in the premises to which the emergency alarm is connected, including: owners; lessees; tenants; occupants; and persons having charge or control of any premises or any part of any premises, and employees and agents of all of the foregoing.

(2) Reliability of an emergency alarm system is of prime importance. The provision of early warning of fire and of illegal activity accompanied by notification of appropriate authorities is a key element of an alarm protection system.

(3) Certain owners and/or operators shall be required to install and maintain alarm systems pursuant to the ordinances of the town. Other owners and/or operators may elect to install and maintain alarm systems. All alarm systems, whether mandatory or not, must comply with the ordinances of the town and this section applies to all of same.

(4) The occurrence of false emergency alarms transmitted to fire department personnel shall constitute a violation of this chapter and shall result in the owner and/or operator being subject to a penalty in accordance with the following for false emergency alarms occurring during any consecutive twelve (12) month period to be calculated from the date of the first false emergency alarm during such period:

(a) First false emergency alarm: Notification to the owner or operator;

(b) Third false emergency alarm: Warning letter to the owner or operator and a copy of the town's false alarm ordinance;

(c) Four or more false emergency alarms: A fine of fifty dollars ($50.00) on the owner or operator for each such false emergency alarm.

(5) The party responsible for penalties which become due hereunder

(a) In the case of commercial establishments, shall be the owner and/or operator, and

(b) In the case of residences, shall be the record owner(s) unless the property is leased, in which event the lessee(s) shall be the responsible party.

The town shall send notice and a summons to the appropriate party by certified mail, return receipt requested. The owner or operator shall be required to pay any penalty within thirty (30) days of service of the notice thereof or shall have the opportunity to appear in court. Failure to pay will be a violation of this chapter and the town may proceed to cite the offending party for such violations. (Ord. #2005-01, Feb. 2005)

7-402. Service fees for non-residents. Service fees shall be charged for the following services provided within the corporate limits of the Town of Arlington, exempting residents of the Town of Arlington; persons at places of employment within the Town of Arlington; and persons attending daycare, primary or secondary educational facilities within the Town of Arlington:

(1) Motor vehicle fire--three hundred fifty dollars ($350);

(2)Motor vehicle rescue--five hundred dollars ($500);

(3) Emergency medical response in which an ambulance is called--two hundred dollars ($200);

(4) Hazardous material incident--three hundred fifty dollars ($350) plus the cost of all materials used to control the incident.

Said service fees shall be assessed the insurance carrier, or in the event such carrier refuses to pay, directly to the person receiving such service. (Ord. #2005-01, Feb. 2005)

CHAPTER 5

FIREWORKS

SECTION

7-501. Definitions
7-502. Limited time period to use fireworks.
7-503. Exclusions.
7-504. Violations and penalties.

7-501. Definitions. As used in this chapter, unless the content otherwise requires:

(1) "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of:

(a) All articles of fireworks classified as 1.4G, or referred to as "Consumer Fireworks," or "Class C Common Fireworks,

(b) Theatrical and novelty, classified as 1.4S, or (c) Display fireworks, classified as 1.3G, as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, Title 49, Code of Federal Regulations (CFR), Parts 171-180.

(d) Exceptions: (i) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100(p), and packed and shipped according to those regulations;

(ii) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models.

(iii) Propelling or expelling charges consisting of a mixture of sulfur, charcoal, saltpeter are not considered as designed to produce audible effects.

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

(3) Singular words and plural words used in the singular include the plural and the plural the singular. (as added by Ord. #2007-02, March 2007)

7-502. Limited time period to use fireworks. It is unlawful for any person to discharge or use fireworks except for the following time periods:

(1) July 4 - The permissible hours are from 10:00 A.M. to 10:30 P.M.

(2) December 31 and January 1 - The permissible hours are from 8:00 P.M. on December 31 to 1:00 A.M. on January 1 (as added by Ord. #2007-02, March 2007)

7-503. Exclusions. Nothing in this chapter prohibits: (1) The sale or use of blank cartridges for theater, for signal or ceremonial purposes, in athletics or sporting events, or legal power tools.

(2) The transportation, handling, or use of any pyrotechnic devices by the armed forces of the United States.

(3) The use of pyrotechnics in training by the fire service, law enforcement, or similar governmental agencies.

(4) The use of fireworks for agricultural purposes under conditions approved by the fire chief or his designee.

(5) The Town from granting permits for institutionally sponsored fireworks displays. (as added by Ord. #2007-02, March 2007)

7-504. Violations and penalties. Violations of any provision of this chapter shall be subject to a penalty of up to fifty dollars ($50.00) per violation. (as added by Ord. #2007-02, March 2007)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER
1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION
8-101. Manufacture, sale, etc., legalized; compliance with state law and chapter.
8-102. "Alcoholic beverage" defined.
8-103. Interpretation of chapter.
8-104. Applicants for certain licenses to be citizens.
8-105. Duration of license; renewal; issuance.
8-106. Display of license.
8-107. Issuance of duplicate license.
8-108. Certificates of good moral character.
8-109. Form.
8-110. Manufacture, sale, etc., near churches, schools, or other public institutions.
8-111. Number of licenses to be issued and outstanding.
8-112. Where establishments may be located.
8-113. Cocktail bars prohibited.
8-114. Sales in unsealed bottles for consumption on the premises.
8-115. Sales to minors, drunkards, etc.
8-116. Restrictions as to hours and days of sale.
8-117. Inspection of business establishments.
8-118. Use of premiums, tokens, etc., as inducements to purchase alcoholic beverages.
8-119. Gambling devices, music machines, etc., prohibited on premises.
8-120. Inspection fee.

---

[1]Municipal code references
Drinking beer, etc. on streets: § 11-201.
Minors in beer places: § 11-202.
State law reference
Tennessee Code Annotated, title 57.

8-101. Manufacture, sale, etc., legalized; compliance with state law and chapter. It shall be lawful to engage in the business of manufacturing, selling, storing, transporting, and distributing alcoholic beverages within the corporate limits of the town. The manufacture, sale, receipt, possession, storage, transportation, distribution, or in any manner dealing in alcoholic beverages within the corporate limits of the town shall be regulated in accordance with the provisions of Tennessee Code Annotated, chapter 3, title 57, the rules and regulations adopted by the Commissioner of Finance and Taxation of the State, and in accordance with the provisions of this chapter. (1994 Code, § 2-101)

8-102. "Alcoholic beverage" defined. "Alcoholic beverage" or "beverage" as used in this chapter means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, or wine capable of being consumed by a human being, other than patented medicine, beer, or wine where the latter two contain an alcoholic content of five percent (5%) by weight or less. (1994 Code, § 2-102)

8-103. Interpretation of chapter. Nothing in this chapter is intended to relate to the manufacture, transportation, storage, sale, distribution, possession, receipt of, or tax upon, any beverage of an alcoholic content of five percent (5%) by weight or less, and no ordinance relating thereto shall be considered or construed as a modifier by this chapter. (1994 Code, § 2-103)

8-104. Applicants for certain licenses to be citizens. All applicants for manufacturers', distillers', or rectifiers' licenses for winery licenses shall be citizens of the United States. If the applicant is a corporation, no license shall be issued unless all its stockholders are citizens of the United States. All applicants for retailers' licenses shall be a resident of the State of Tennessee and shall have been such for a minimum of two (2) years prior to submission of application. (1994 Code, § 2-104)

8-105. Duration of license; renewal; issuance. The license shall be for the period of one year, commencing January first of each year and expiring on December 31st of each year. Licenses may be renewed each year by compliance with Tennessee Code Annotated, chapter 3, title 57. The recorder shall not be authorized to issue such license until the applicant has qualified, as required by Tennessee Code Annotated, chapter 3, title 57, to engage in such business and has exhibited to the recorder the license issued to the applicant by the Commissioner of Finance and Taxation of the State of Tennessee. (1994 Code, § 2-105)

8-106. Display of license. Persons granted licenses to carry on any of the businesses or undertakings contemplated by this chapter shall, before being qualified to do business, display and post and keep displayed and posted such

license in a conspicuous place on the premises of such licensee. (1994 Code, § 2-106)

8-107. Issuance of duplicate license. When a license shall be lost or destroyed without fault of the licensee, a duplicate in lieu thereof shall be issued by the recorder only after the recorder has been furnished with satisfactory evidence of such loss without fault of the licensee; provided, however, that upon the issuance of such duplicate license the licensee shall be required to pay a registration fee of fifty cents (50¢). (1994 Code, § 2-107)

8-108. Certificates of good moral character. All applicants for certificates of good moral character as provided by Tennessee Code Annotated, chapter 3, title 57, shall be required to make application to the board of mayor and aldermen on forms to be prepared by the board. (1994 Code, § 2-108)

8-109. Form. The board of mayor and aldermen shall have authority to prepare and have printed a form of certificate to be issued by the board of mayor and aldermen in certifying to the Commissioner of Finance and Taxation of the State of Tennessee the good moral character of applicants for such certificate. (1994 Code, § 2-109)

8-110. Manufacture, sale, etc., near churches, schools, or other public institutions. No alcoholic beverage shall be manufactured, distilled, rectified, sold, or stored on any premises that shall be located in close proximity to any church, school, or other public institution, whenever in the discretion of the board of mayor and aldermen such location would be inimical to the public welfare. (1994 Code, § 2-110)

8-111. Number of licenses to be issued and outstanding. The number of retail licenses issued and outstanding in the town at any time shall be restricted to one for each fifteen thousand (15,000) resident citizens of the Town of Arlington according to the last official census. In considering applicants for certificates of wholesale licenses, preference shall be given to bona fide residents of Shelby County. (1994 Code, § 2-111, as amended by Ord. #2005-08, March 2005)

8-112. Where establishments may be located. It shall be unlawful for any person to operate or maintain any wholesale or retail establishment for the sale, storage, or distribution of alcoholic beverages in the town except at locations with the "general commercial" zoning classification of the zoning ordinances of the Town of Arlington. (1994 Code, § 2-112)

8-113. Cocktail bars prohibited. It shall be unlawful for any person to maintain a cocktail bar in the town or to sell or serve ice, soda, or other

mixtures for the purpose of mixing cocktails or highballs or any other intoxicating drinks to be consumed where ice, soda, or other mixtures are sold or served. The term "cocktail bar" as used in this section shall mean any public place where ice, soda, or other ingredients are sold or served by the owner or operator for the mixing of alcoholic beverage drinks. (1994 Code, § 2-113)

8-114. Sales in unsealed bottles for consumption on the premises. No alcoholic beverages shall be sold for consumption on the premises of the seller. No wholesaler or retailer shall keep or permit to be kept upon his premises any alcoholic beverages in unsealed bottles or other containers. (1994 Code, § 2-114)

8-115. Sales to minors, drunkards, etc. It shall be unlawful for any licensee to sell, furnish, or give away any beverages to any person visibly intoxicated, to any insane person, to any minor, or to any habitual drunkard or persons of known intemperate habits. (1994 Code, § 2-115)

8-116. Restrictions as to hours and days of sale. Retailers may remain open for business between the hours of 9:00 A.M. and 10:00 P.M., central time, each day; provided, however, that no retailer shall sell, give away, or otherwise dispose of any alcoholic beverages between 10:00 P.M. on Saturday and 9:00 A.M., central time, on the following Monday; provided, further, that no retailer shall sell, give away, or otherwise dispose of any alcoholic beverages on a general or primary election day. (1994 Code, § 2-116)

8-117. Inspection of business establishments. The duly authorized representatives of the town shall have the right to inspect the premises of any business licensed under this chapter during the hours when such establishments are open for conduct of business. (1994 Code, § 2-117)

8-118. Use of premiums, tokens, etc., as inducements to purchase alcoholic beverages. No licensee shall give away, sell, or in any manner whatsoever deal in premiums, tokens, or other articles by means of which inducements are held out to trade to purchase any alcoholic beverages. (1994 Code, § 2-118)

8-119. Gambling devices, music machines, etc., prohibited on premises. No gambling devices, pinball machines, music machines, or similar devices shall be permitted to operate upon any premises from which alcoholic beverages are sold. (1994 Code, § 2-119)

8-120. Inspection fee. There is hereby imposed an inspection fee of five percent (5%) on all gross purchases of alcoholic beverages made by licensees under this chapter. The payment of said fee shall be accompanied by copies of

all billings made to licensees by all wholesalers or distributors for said calendar month on a form prescribed by the board of mayor and aldermen. Failure to pay said fee and make said report accurately within the time prescribed may cause for suspension for as many as thirty (30) days, or for the revocation of said license. (1994 Code, § 2-120)

CHAPTER 2

BEER[1]

SECTION

8-201. Beer board established.
8-202. Meetings of the beer board.
8-203. Record of beer board proceedings to be kept.
8-204. Requirements for beer board quorum and action.
8-205. Powers and duties of the beer board.
8-206. Hearings before beer board.
8-207. Permit required.
8-208. Privilege tax.
8-209. Beer permits shall be restrictive.
8-210. Deleted.
8-211. Issuance of permits to persons convicted of certain crimes prohibited.
8-212. Prohibited conduct or activities by beer permit holders.
8-213. Suspension and revocation of beer permits.
8-214. Deleted.
8-215. Sales legalized; conditions generally.
8-216. Definitions.
8-217. Permit required for engaging in beer business.
8-218. Proof of payment required.
8-219. Display of licenses required.
8-220. Right to inspect premises of licensee.
8-221. Consumption of alcohol on municipal parks prohibited.
8-222. Penalty.
8-223. Display of permit.
8-224. Interference with public health, safety and morals prohibited: on-premises permit--distance.
8-225. Interference with public health, safety and morals: off-premises permit; distance.
8-226. Method of measuring location distance prohibitions.
8-227. Separate sanitary toilets required.

---

[1]Municipal code references
Drinking beer, etc. on streets: § 11-201.
Minors in beer places: § 11-202.
Wholesale beer tax: § title 11, chapter 2.

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

8-228. Beer tax assessed.
8-229. Penalty imposed for non-payment of beer tax.
8-230. License revocation for failure to pay beer tax.
8-231. Trade-in inducements prohibited.
8-232. Zoning restriction of alcoholic beverage retailers.
8-233. Affidavit of permit holder.
8-234. Bond required.
8-235. Prohibition of "brown bagging."
8-236. Off-premises consumption sales of draft beer.
8-237. Sales for off-premises consumption by beer manufacturers operating as restaurants.

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board. (1994 Code, § 2-201)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the town hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman, provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1994 Code, § 2-202)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1994 Code, § 2-203)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1994 Code, § 2-204)

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

(2) The chairperson of the beer board may call a special session of the beer board upon notification of a violation of this chapter. the permit holder in violation shall be summoned to appear at a designated time and place. The summons shall be issued by the charging officer.

(3) The beer board may restrict beer permits to off-premises consumption only or on-premises consumption only.

(4) For on-premises permits, the applicant must serve at least one hot meal a day at tables provided for that purpose with a menu available during the regular hours. It is further required that a minimum of seventy percent (70%) of the gross revenues of the establishment be from food sales. Reporting procedures for establishments holding on-premises permits are herewith established. Reporting forms shall be provided to establishments holding class permits and shall detail food sale and alcoholic beverage sale percentages on the annual basis and shall be due on or before January 31. The licensee will submit copies of all sales tax returns related to that period, including, but not inclusive of sales and use tax return and liquor-by-the-drink return, with appropriate documentation. These returns will be subject to audit by the town. Reporting year shall be January 1 through December 31. The finance department shall send the town clerk an annual list of businesses which have complied with this requirement, and the town clerk will keep a record of such compliance. (Ord. #2005-06, April 2005)

8-206. Hearings before the beer board. (1) All matters brought before the beer board will be heard in the following order:

(a) Requests for continuances;

(b) Rehearings and decisions where no protests have been received;

(c) Special hearings;

(d) Violations in which permit holders are represented by counsel and/or at the request of the police;

(e) Applications for issuance of beer permits;

(f) Rehearings and decisions where protests have been received.

(2) Those permit holders charged with violations will be given written notice not less than five days in advance to appear before the beer board to answer charges.

(3) All alleged permit violators at the hearing have the right to plead not guilty to any or all of the charges, to have assistance of counsel, to cross-examine witnesses and to testify and present witness(es) and evidence on his or her behalf.

(4) All witnesses in a contested matter before the beer board shall first be sworn in by the town clerk, a representative from that office authorized to administer an oath or by a certified court reporter prior to any testimony or evidence being given.

(5) Heresay evidence is admissible in hearings before the beer board.

(6) The beer board has no power to subpoena or require the presence of any witness.

(7) A transcript recording shall be made of all contested beer board hearings. The town clerk shall be advised by the permit holder, prior to the hearing, that a transcribed recording is required. The cost of such a recording shall be divided equally between the permit holder and the town. All other matters before the beer board shall be tape-recorded.

(8) After hearing all the testimony in a given case, the beer board may take the following action:

(a) Dismiss any and all charges;

(b) Place on probation for up to one (1) year, pursuant to the limitations and restrictions imposed by Tennessee Code Annotated, §§ 57-5-608 and 57-5-108;

(c) Suspend the beer permit for any number of days or indefinitely, pursuant to the limitations and restrictions imposed by Tennessee Code Annotated, §§ 57-5-608 and 57-5-108;

(d) Revoke the beer permit, pursuant to the limitations and restrictions imposed by Tennessee Code Annotated, §§ 57-5-608 and 57-5-108;

(e) Offer a civil monetary penalty as an alternative to suspension or revocation, not to exceed one thousand dollars ($1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense, to a responsible vendor if the permit or license holder and the clerk making the sale have complied with the requirements of Tennessee Code Annotated, § 57-5-601 et seq. (Tennessee Responsible Vendor Act of 2006.)

(f) Offer a civil monetary penalty as an alternative to suspension or revocation, not to exceed two thousand five hundred dollars ($2,500.00) for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed one thousand dollars ($1,000.00) for any other offense, to a vendor who is not a responsible vendor in accordance with the requirements of Tennessee Code Annotated, § 57-5-601 et seq. (Tennessee Responsible Vendor Act of 2006), or to a responsible vendor under the same act if the vendor or clerk making the sale to a minor fails to comply with the requirements of Tennessee Code Annotated, § 57-5-606.

(g) If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days from the date of the hearing within which to pay the civil penalty to the town clerk 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. The permit holders payment of the civil penalty shall not affect the options provided by subsection (10) of this section.

(9) In assessing a penalty, the beer board may consider the past record of the permit holder and location.

(10) Upon receiving an adverse ruling by the beer board, an applicant or permit holder:

(a) Accept the decision and penalty;

(b) File a writ of certiorari in the Shelby County Circuit or Chancery Courts.

(11) The penalty assessed by the beer board will take effect on the fifteenth (15th) day after the beer board decision at 12:01 A.M. and will be continuously enforced throughout the period of suspension or revocation. In the event a permit holder requests a re-hearing or files a Writ of Certiorari, the enforcement period will become effective upon completion of the re-hearing or the disposition of the Writ of Certiorari. (Ord. #2005-06, April 2005, as amended by Ord. #2007-08, July 2007)

8-207. Permit required. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and, pursuant to Tennessee Code Annotated, § 57-5-101(b), shall be accompanied with a nonrefundable application fee of two hundred fifty dollars ($250.00).[1] Said fee shall be in the form of a cashier's check payable to the Town of Arlington, Tennessee. 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 and Tennessee Code Annotated, §§ 57-5-101 through 57-5-416. (1994 Code, § 2-207, as amended by Ord. #2005-06, April 2005)

8-208. Privilege tax. Effective January 1, 1994 there is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars ($100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1 to the Town of Arlington, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (1994 Code, § 2-208)

8-209. Beer permits shall be restrictive. (1) All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and

---

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

manufacturing. Permits may be issued by the board to retail stores for the sale of beer exclusively for carry-out, off premises consumption.

(2) It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (1994 Code, § 2-209)

8-210. Deleted. (1994 Code, § 2-110, as deleted by Ord. #2014-07, Aug. 2014)

8-211. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (1994 Code, § 2-211)

8-212. Prohibited conduct or activities by beer permit holders. (1) It shall be unlawful for any beer permit holder to allow any of the following activities in a licensed establishment:

(a) 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;

(b) Make or allow any sale, give away or otherwise dispose of beer between the hours of 1:00 A.M. and 7:00 A.M. during any night of the week; and between 1:00 A.M. and noon on Sunday;

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

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

(e) Allow the owner or any employee to consume alcoholic beverages while on duty. An owner is always assumed to be on duty while in his or her establishment and in the public part of the business;

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

(g) Allow drunk persons to loiter about his premises.

(h) Allow consumption of beer in an establishment restricted to off-premises consumption.

(i) Serve or sell or allow to be served or sold beer to any person in or on any motor vehicle or allow any person to consume beer while in a motor vehicle parked on this premises.

(j) Allow assaults, fighting, damaging of property and breaches of the peace occurring on or in the premises where beer is sold.

(k) Allow consumption of beer at any point closer than two hundred (200) feet from the point of sale, when an off-premises permit only is held by licensee.

(l) Fail to prominently display a current beer permit.

(m) Fail to provide at least one working telephone for incoming and outgoing calls at all times.

(n) Allow the sale or consumption of beer from any location under suspension by the beer board.

(o) Sell, serve or allow to be sold on his or her premises any alcoholic beverage with an alcoholic content of more than five percent (5%) weight, unless such location holds a valid, current mixed drink license issued by the Tennessee Alcoholic Beverage Commission.

(p)Not to comply with the laws of the State of Tennessee and the Town of Arlington regarding beer.

(q) Fail to comply with the restrictions; it shall be unlawful for any permit holder of an on-premises license to:

(i) Employ any minor under the age of eighteen (18) in the sale or serving of beer;

(ii) Allow any minor under the age of twenty-one (21) to frequent his or her place of business, except where the business is a restaurant and in that case said minor shall only be allowed in the business for the sole purpose of eating of prepared food from the menu;

(iii) Allow dancing on his or her premises by employees or agents of the business;

(iv) Allow pool or billiard playing in the same room where beer is consumed;

(v) Fail to provide sufficient lighting for customers to adequately read a menu and for employees to properly inspect the age and identification cards of its customers;

(vi) Permit customers or employees to be nude, topless or bottomless at any time;

(vii) No permit shall be issued to a business location with pinball or video game machines exceeding four (4) in number.

(r) Make or allow any sale of beer for off-premise consumption to any person who does present to the permit holder or any employee thereof a valid, government issued document, such as a driver's license, or other form of identification which includes the photograph and birth date of the adult consumer attempting to purchase the beer. Those persons exempt under state law from the requirement of having photo identification shall present identification that is acceptable to the permit holder.

(2) All above violations observed openly shall be considered prima facie evidence that the violation is allowed by the permit holder and the burden of

proof to prove otherwise shall be shifted to the permit holder. (Ord. #2005-06, April 2005, as amended by Ord. #2007-09, July 2007)

8-213. Suspension and revocation of beer permits. The beer board shall have the power to suspend or revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board. (1994 Code, § 2-213)

8-214. Deleted. (1994 Code, § 2-114, as deleted by Ord. #2014-07, Aug. 2014)

8-215. Sales legalized; conditions generally. It shall be lawful to transport, store, sell, distribute, possess, receive or manufacture beer of alcoholic content of not more than five percent (5%) by weight or any other beverage of like alcoholic content within the corporate limits of the town, subject to all the regulations, limitations and restrictions provided by Tennessee Code Annotated, title 57, chapter 5, or other laws of the state and subject to the rules, regulations, limitations and restrictions hereinafter provided or hereafter promulgated. (Ord. #2005-06, April 2005)

8-216. Definitions. (1) "Beer" means and includes beers, ales, malt liquors and every other liquid containing alcohol and capable of being consumed by a human being, other than patent medicine, wine as defined in Tennessee Code Annotated, § 57-3-101, alcoholic beverage where the latter contains an alcoholic content of five percent (5%) or more by weight or more or products or beverages containing less than one half of one percent (0.5%) of alcohol by volume;

(2) "Church" means a building where persons regularly assemble for religious worship, which building is maintained, controlled and owned by a religious body or institution organized to sustain public worship;

(3) "Clerk" means any person working in a capacity to sell beer directly to consumers for off premise consumption;

(4) "License" means the license issued pursuant to this chapter;

(5) "Licensee" means any person to whom such license has been issued pursuant to this chapter;

(6) "Moral turpitude" means premeditated murder, all sex-related crimes, the illegal possession or sale of schedule I and II controlled substances, as defined by Tennessee Code Annotated, §§ 39-17-405 to 39-17-408, and embezzlement;

(7) "Responsible vendor" means a vendor that has received certification from the Alcoholic Beverage Commission pursuant to Tennessee Code Annotated, § 57-5-601 et seq. (Tennessee Responsible Vendor Act of 2006);

(8) "Retailer" means any person who sells at retail any beverage for sale of which a license is required under the provisions of this chapter;

(9) "Retail sale" or "Sale at retail" means a sale to a consumer or to any person for any purpose other than for resale;

(10) "School" means an institution of learning including but not limited to parochial, private, public school as defined by the town's zoning ordinance and child care facilities as defined by the town's zoning ordinance;

(11) "Tennessee Code Annotated" means the Tennessee Code Annotated. Words importing the masculine gender include the feminine and the neuter, and the singular includes the plural.

(12) "Town" means the Town of Arlington, Tennessee.

(13) "Vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off premise consumption. (Ord. #2005-06, April 2005, as amended by Ord. #2007-09, July 2007)

8-217. Permit required for engaging in beer business. (1) Permits shall be issued by class as follows:

(a) Class I - "Across-the-counter" licenses for on the premises consumption only;

(b) Class II - "Package sales" licenses for off-premises consumption only;

(2) Applications for a beer permit. (a) The application for the beer permit shall state the class or classes of permits requested. The number of businesses for which permits may be issued is unlimited; provided, however, an owner who operates two or more restaurants or other businesses within the same building may, in his or her sole discretion, operate all or some of the businesses pursuant to the same permit. Such multiple use permits must be issued for the classes applicable to the conduct of the businesses.

(b) All classes of permits shall be issued to the owner of the business, whether a person, firm, corporation, joint stock company, syndicate or association. A permit shall be valid:

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

(ii) Only for a single location and cannot be transferred to another location. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of

the building in which the business is located and that are operated by the business; and

(iii) Only for a business operating under the name identified in the permit application.

(c) A permit holder must return a permit to the beer board within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business name; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business name. This provision shall have no application to the temporary closing of a business for the purpose of constructing improvements, provided the business reopens under the same name and ownership.

(d) Each applicant shall disclose the following information on the application for a beer permit:

(i) Name of applicant;

(ii) Name of applicant's business;

(iii) Location of the business by street address or other geographical description to permit an accurate determination of conformity with the requirements of state law and this subchapter;

(iv) If beer will be sold at two or more restaurants or businesses in the same building pursuant to the same permit, a description of all such businesses;

(v) Persons, firms, corporations, joint stock companies, syndicates or associations having at least a five percent (5%) ownership interest in the applicant;

(vi) Identity and address of a representative to receive annual tax notices and any other communication from the beer board;

(vii) An acknowledgment that no person, firm, joint stock company, syndicate or association having at least a five percent (5%) ownership interest in the applicant nor any person to be employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages or any other crime involving moral turpitude within the past ten (10) years;

(viii) The class of permit being requested and an acknowledgment that if the applicant desires to change the method of sale or operation in the future that a new application will be submitted to the beer board requesting a new permit;

(ix) Such other relevant information as may be required from time to time by the beer board.

(x) Affirmative acknowledgment that the applicant or permit holder shall amend or supplement the application promptly

if a change in circumstances affects any information submitted on or with the application; and

(xi) The applicant's certification that the owner of the business or its representative has read and is familiar with all provisions of this chapter.

(e) Any applicant making a false statement in the application shall forfeit the permit and shall not be eligible for any type beer permit for a period of ten (10) years.

(f) In no event shall a permit be issued without a full and proper hearing before the beer board and a majority vote therefore in favor of such issuance.

(3) Beer permits to be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distribution and manufacturing. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his or her permit. It shall likewise be unlawful for him or her not to comply with any and all express conditions or restrictions which may be written into his or her beer permit by the beer board.

(4) Procedures for obtaining a beer permit. The following procedures must be followed by all applicants in seeking a hearing for a beer permit before the Town of Arlington Beer Board:

(a) Applicant will complete an official application form and return the form to the town clerk at least thirty (30) days prior to the next regularly scheduled meeting of the beer board.

(b) Applicants must secure the signatures of at least ten (10) citizens who reside in the Town of Arlington. This shall certify that they know the applicant and will testify as to the character and moral standing of the applicant.

(i) If the applicant is unable to obtain the above, signatures of business owners within Arlington or Shelby County will be accepted, provided they have known the applicant at least five (5) years and provided a letter from the applicant is also submitted as to why signatures of Arlington residents were not obtained.

(ii) Applicants who are unable to meet either of the above requirements shall appear before the town recorder so he or she may solicit sufficient information to conduct a complete background investigation.

(c) Applicant must secure a telephone for the proposed business location.

(d) The town shall place, at the applicant's expense, a public notice in the newspaper of general circulation within the community prior to the consideration of the application by the beer board. The notice shall be published at least seven (7) days prior to the meeting of the beer board

and shall notify the public of the intent to sell beer at a particular location.

(e) If the application is for a place of business where beer has not been sold in the last twelve (12) months, all property owners within one thousand (1,000) feet of the proposed location shall be notified by the United States mail at least one (1) week before consideration by the beer board, giving the name of the applicant, type of permit requested, and the time and date of the hearing.

(f) Applicant shall place a conspicuous window sign on the proposed location at least two (2) feet by three (3) feet with the letters at least four inches (4") in size notifying the public of the intent to sell beer at that location.

(g) Any applicant denied issuance of a beer permit may file a Writ of Certiorari in Shelby County Circuit or Chancery Courts.

(5) Restrictions on the issuance of beer permits. The beer board shall guided by the following restrictions and limitations in the deliberation and issuance of beer permits within the corporate limits of the Town of Arlington:

(a) Owners must be a citizen or resident alien lawfully admitted into the United States, or if a syndicate or association, all members thereof must be citizens or resident aliens lawfully admitted to the United States. If a club or lodge, it must be incorporated and operating pursuant to a charter or bylaws of the State of Tennessee and exist other than for the sale of alcoholic beverages.

(b) No permit to engage in the beer business shall be granted by the beer board to any person who is under twenty-one (21) years of age.

(c) Any individual may be employed where beer is sold, whether such individual is a citizen or alien resident of the United States, provided other requirements regulating the sale of beer are met. A minimum age of eighteen (18) years is required for all employees involved in the sale or serving of beer.

(d) The applicant will certify on his or her application the names and addresses of all other persons or firms who have any financial interests whatsoever in the business proposed to be established.

(e) Applicant will certify on his or her application that he or she has read and is familiar with all provisions of this chapter.

(f) The beer board may restrict beer permits to off-premises consumption only or on-premises consumption only.

(g) (i) For on-premises permits, the applicant must serve at least one hot meal a day at tables provided for that purpose with a menu available during the regular hours. It is further required that a minimum of seventy percent (70%) of the gross revenues of the establishment be from food sales. Reporting procedures for establishments holding on-premises and combination permits are herewith established. Reporting forms

shall be provided to establishments holding class I permits and shall detail food sale and alcoholic beverage sale percentages on the annual basis and shall be due on or before January 31. The licensee will submit copies of all sales tax returns related to that period, including, but not inclusive of sales and use tax return and liquor-by-the-drink return, with appropriate documentation. These returns will be subject to audit by the town. Reporting year shall be January 1 through December 31. The finance department shall send the town clerk an annual list of businesses which have complied with this requirement, and the town clerk will keep a record of such compliance.

(ii) For business establishments meeting meal regulations, it is recognized that individuals less than twenty one (21) years of age may frequent the business for meal purposes.

(h) For off-premises consumption permits, the applicant will not allow any consumption on the premises or on the sidewalks, streets or property within the immediate premises to be not less than two hundred feet (200'), including the building and parking lot, and no such beverages will be kept for sale in such premises except in the original containers or packages.

(i) No permit shall be issued in violation of any state law or the Zoning Code of the Town of Arlington.

(j) The beer board, at its discretion, may refuse to issue a permit for any place of business which in the period immediately preceding the application for a permit was operated in such a manner as to create a public nuisance or which was operated in such a manner as to materially contribute with places of like character in its vicinity in the creation or maintaining of a public nuisance. In determining whether a permit shall be issued, the beer board shall consider the character of the neighborhood, the space available for the building, the space available for the building, the space available for off-street parking and the effect of the business on neighboring users.

(k) Each applicant for a beer permit shall pay to the town clerk a minimum business license fee and gross receipts tax annually in order to renew the beer permit. The town clerk will notify businesses which fail to pay the annual renewal tax by certified mail not later than February 28 and such failure to file and pay the tax shall result in presentation to the beer board for possible revocation.

(l) No permit will be issued to a spouse, child, relative, employee, or other person having interest in the business of a licensee whose permit has been revoked in the past twelve (12) months.

(m) No permit to engage in the beer business shall be granted by the beer board to any applicant, if the applicant, any person, firm, joint stock company, syndicate or association having at least a five percent

(5%) ownership in the applicant, or any person to be employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages or any other crime involving moral turpitude within the past ten (10) years.

(n) Distance requirements described in §§ 2-224 and 2-225.

(6) Notice given of permit suspension or revocation. The board shall cause the town attorney or town administrator to give written notice to the Shelby County Sheriff of the suspension or revocation of any permit.

(7) The owner or applicant of an establishment with a beer permit must notify the beer board of any change in home address within ten (10) days.

(8) The owner and/or lessee of a business licensed for beer sales, in any class, shall be required to complete and sign an affidavit that he, she or they have read the ordinance governing the sale and consumption of beer and acknowledge responsibility to strictly enforce the beer ordinance in their establishment. Such affidavits shall be signed annually and kept on file in the town clerk's office with the beer permit. Failure to complete the required affidavit shall be considered basis for license revocation. (Ord. #2005-06, April 2005)

8-218. Proof of payment required. It shall be unlawful for any person to sell, store, distribute or manufacture beer without having first exhibited a receipt for the taxes provided for in the state's "business tax act." (Ord. #2005-06, April 2005)

8-219. Display of licenses required. Persons granted licenses to carry on any of the businesses or undertakings contemplated by this article shall, before being qualified to do business, display and post and keep displayed and posted such license in a conspicuous place on the premises of such licensee. (Ord. #2005-06, April 2005)

8-220. Right to inspect premises of licensee. The duly authorized representatives of the town shall have the right to inspect the premises of any business licensed under this article during the hours when such establishments are open for the conducting of business. (Ord. #2005-06, April 2005)

8-221. Consumption of alcohol on municipal parks prohibited. It shall be a violation of ths ordinance for any person to consume and/or possess alcoholic beverage, beer or wine on municipal parks and playgrounds. (Ord. #2005-06, April 2005)

8-222. Penalty. Violation of this chapter shall subject the violator to a penalty not to exceed a fine of fifty dollars ($50.00) for each violation. (Ord. #2005-06, April 2005)

8-223. Display of permit. The permit shall be posted in a conspicuous place on the premises of the permit holder, together with all other permits, licenses and stamps as required by law. (Ord. #2005-06, April 2005)

8-224. Interference with public health, safety and morals prohibited: on premises permit--distance. No permit authorizing the sale of beer for on-premises consumption will be issued when such business would cause congestion or traffic or would interfere with school or churches, or would otherwise interfere with the public health, safety and morals of the citizens of the Town of Arlington. In no event will a beer permit be issued authorizing the on premises storage for sale or sale of beer at places within five hundred feet (500') of any school or church, except in the B-3 Zoning District for which no distance requirement is set. (Ord. #2005-06, April 2005, as amended by Ord. #2014-07, Aug. 2014)

8-225. Interference with public health, safety and morals prohibited: off-premises permit--distance. No permit authorizing the sale of beer for off-premises consumption will be issued when such business would cause congestion or traffic or would interfere with schools or churches, or would otherwise interfere with the public health, safety and morals of the citizens of the Town of Arlington. In no event will a beer permit be issued authorizing the manufacture, storage or sale of beer for off-premises consumption at places within two-hundred twenty-five feet (225') of any school or church. (Ord. #2005-06, April 2005)

8-226. Method of measuring location distance prohibitions. Whenever in this chapter a distance is specified within which beer for on-premise or off-premise consumption is prohibited, that distance shall be measured in a straight line from the closest point on the building of the school or church, to the closest point on the building of the permit applicant, in a multi-tenant building to the nearest point on the space leased by the applicant in a multi-tenant building, in which beer is to be sold, stored, distributed, or manufactured. (Ord. #2005-06, April 2005, as amended by Ord. #2014-07, Aug. 2014)

8-227. Separate sanitary toilets required. It shall be unlawful for a permit holder to fail to provide and maintain separate sanitary toilet facilities for men and women. (Ord. #2005-06, April 2005)

8-228. Beer tax assessed. In accordance with Tennessee Code Annotated, title 57, chapter 6, there shall be imposed upon the sale of beer at wholesale within the Town of Arlington a seven percent (7%) tax upon wholesale price of beer sold in the Town of Arlington pursuant to section 4, chapter 76 of Public Acts of Tennessee of 1953. (Ord. #2005-06, April 2005)

8-229. Penalty imposed for non-payment of beer tax. In the event that a person, firm or corporation responsible for payment of wholesale beer tax under chapter 76 of the Public Acts of Tennessee for 1953 fails to make said payment by the twentieth (20th) of the following month following their collection, there shall be assessed a penalty of ten percent (10%) of the amount due per month for each month or portion of the month of non-payment (Ord. #2005-06, April 2005)

8-230. License revocation for failure to pay beer tax. In the event that the wholesale beer tax, pursuant to chapter 46 of the Public Acts of Tennessee of 1953 remains unpaid for a period of ninety (90) days, said nonpayment shall be reported to the Beer Board of the Town of Arlington and to the board of mayor and aldermen, and there shall be scheduled a hearing before the beer board for revocation. After the expiration of ninety (90) days of nonpayment, said revocation proceedings shall be mandatory and payment thereafter, but prior to the beer board hearing, shall be accepted, yet the revocation will remain on the agenda for a hearing. (Ord. #2005-06, April 2005)

8-231. Trade-in inducements prohibited. No licensee shall give away, sell, or in any manner whatsoever deal in premiums, tokens or other articles by means of which inducements are held out of trade to purchase any alcoholic beverages. (Ord. # 2005-06, April 2005)

8-232. Zoning restriction of alcoholic beverage retailers. No person, firm or corporation shall locate an establishment for the retail warehousing, sale or manufacture of beer for on-premise consumption in any "neighborhood restaurant" as defined by the Town of Arlington Zoning Ordinance. (Ord. # 2005-06, April 2005, as amended by Ord. #2014-07, Aug. 2014)

8-233. Affidavit of permit holder. The owner and/or lessee of a business license for beer sales, in any class, shall be required to complete and sign an affidavit that he, she or they have read the ordinance governing the sale and consumption of beer and acknowledge responsibility to strictly enforce the beer ordinance in their establishment. Such affidavits shall be signed annually and kept on file in the town clerk's office with the beer permit. Failure to complete the required affidavit shall be considered basis for license revocation. (Ord. # 2005-06, April 2005)

8-234. Bond required. Every person to whom a permit is issued shall, before selling at retail any beverage permitted to be sold under this subchapter, execute and file with the Town of Arlington, a bond in the sum of two thousand five hundred dollars ($2,500.00). The bond shall be conditioned that the principal thereof will pay any fine arising from any violation of this subchapter

which may be assessed against such principal or any agent or employee thereof by the beer board, town court or any court of competent jurisdiction to which any suit from the town court is appealed. The bond shall be executed by some solvent surety company authorized to do business in the State of Tennessee or by solvent personal sureties approved by the town attorney. (Ord. # 2005-06, April 2005, as amended by Ord. #2014-07, Aug. 2014)

8-235. Prohibition of "brown bagging." No owner, operator or employee of any restaurant, club or other business of every kind and description, shall permit or allow any person to open, or to have open, or to consume inside or on the premises a bottle, can, flask or container of any kind or description, of beer unless the business has a current license or permit under this section for the sale of beer on premises, and the beer consumed was purchased at said business. (Ord. #2005-20, Oct. 2005)

8-236. Off-premises consumption sales of draft beer. (1) Draft beer may be sold for off-premises consumption only by the holder of an off-premises beer permit, except as otherwise permitted in § 8-237 of this chapter.

(2) For purposes of this section only, except where the context clearly indicates a different meaning, draft beer means beer which is poured from a pressurized container or keg into a container approved by the state, which is then commercially sealed. The process of pouring the beer into the container and commercially sealing it shall take place on the premises of the retailer in an area separate from the area which the public may use. (as added by Ord. #2014-07, Aug. 2014)

8-237. Sales for off-premises consumption by beer manufacturers operating as restaurants. Notwithstanding any other provisions of this chapter, or any rule or regulation of the Town of Arlington to the contrary, any manufacturer of beer operating as a restaurant and licensed to sell beer for on-premise consumption therein shall have the right to sell beer to go, provided that such beer is manufactured within the premises of the restaurant and is sold unopened and in the original container. (as added by Ord. #2014-07, Aug. 2014)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. POOL ROOMS.
5. SEXUALLY ORIENTED BUSINESSES.
6. FOOD CODE.
7. MOBILE FROZEN DESSERT VENDORS AND FOOD TRUCKS.

CHAPTER 1

MISCELLANEOUS

SECTION

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

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1994 Code, § 5-101)

[1]Municipal code references
Junkyards: title 13.
Liquor and beer regulations: title 8.
Noise reductions: title 11.
Shelby County codes applicable within town: § 12-101.
Zoning: title 14.

CHAPTER 2

PEDDLERS, ETC.[1]

SECTION

9-201. Permit required.
9-202. Exemptions.
9-203. Application for permit.
9-204. Issuance or refusal of permit.
9-205. Appeal.
9-206. Bond.
9-207. Loud noises and speaking devices.
9-208. Use of streets.
9-209. Exhibition of permit.
9-210. Revocation or suspension of permit.
9-211. Reapplication.
9-212. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit 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. (1994 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations, nor to farmers who peddle, canvass, or solicit the sale of produce grown or raised by them. (1994 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the recorder a sworn written application containing the following:

(1) Name and physical description of applicant;

(2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made;

(3) Tennessee sales tax number;

---

[1]Municipal code reference
Privilege taxes: title 5.

(4) A brief description of the nature of the business and the goods to be sold;

(5) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship;

(6) The length of time for which the right to do business is desired;

(7) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant;

(8) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to evaluate properly the applicant's moral reputation and business responsibility;

(9) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance, and if so, the nature of the offense and, the punishment or penalty assessed therefor;

(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) At the time of filing the application, a fee of five dollars ($5.00) shall be paid to the town to cover the cost of investigating the facts stated therein. (1994 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) The recorder shall immediately refer the application to the chief of police who shall obtain the information about the applicant required in §§ 9-203(8), (9) and (10) above, put the same in writing, and return the application and information to the recorder within three (3) working days. The recorder shall also obtain such reports from the Better Business Bureau as are available on the applicant, and the business the applicant represents, and record the same on the application.

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

(3) If, on the other hand, the recorder finds that the moral reputation and business responsibility of the applicant are satisfactory, the recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The recorder shall keep a permanent record of all permits issued (1994 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the recorder in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor within thirty (30) days after notice of the action complained of, a written statement setting forth

fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a law enforcement officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1994 Code, § 5-205)

9-206. Bond. Every permittee shall file with the recorder a surety bond running to the town in the amount of one thousand dollars ($1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the Town of Arlington 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 citizen of 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 citizen of 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, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1994 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the town or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1994 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of the recorder or a representative of the town designated by the recorder, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1994 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any citizen. (1994 Code, § 5-209)

9-210. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

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

(3) When it is reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1994 Code, § 5-210)

9-211. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1994 Code, § 5-211)

9-212. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1994 Code, § 5-212)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Permit required.
9-302. Prerequisites for a permit.
9-303. Denial of a permit.
9-304. Exhibition of permit.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1994 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall, upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

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

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

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

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1994 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within thirty (30) days after he makes application therefor. (1994 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any person solicited. (1994 Code, § 5-304)

CHAPTER 4

POOL ROOMS[1]

SECTION
9-401. Prohibited in residential areas.
9-402. Hours of operation regulated.
9-403. Minors to be kept out; exception.

9-401. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1994 Code, § 5-401)

9-402. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1994 Code, § 5-402)

9-403. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, or for their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if they are living. If either parent is dead, then written consent must be obtained from the guardian, or other person having legal control of such minor. If the minor is in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school must be obtained. This section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1994 Code, § 5-403)

---

[1]Municipal code reference
Privilege taxes: title 5.

CHAPTER 5

SEXUALLY ORIENTED BUSINESSES

SECTION

9-501. Purpose and intent.
9-502. Definitions.
9-503. Classification.
9-504. Permit requirements.
9-505. Issuance of permit.
9-506. Fees.
9-507. Inspection.
9-508. Expiration of permit.
9-509. Suspension/revocation of permit.
9-510. Hearings and appeals.
9-511. Transfer of permit.
9-512. Location.
9-513. Exemption from location restrictions.
9-514. Additional regulations for escort agencies.
9-515. Additional regulations for nude model studios.
9-516. Additional regulations for adult theaters and adult motion picture theaters.
9-517. Additional regulations for adult motels.
9-518. Regulations pertaining to exhibition of sexually explicit films or videos.
9-519. Display of sexually explicit material to minors.
9-520. Enforcement.
9-521 Injunction.

9-501. Purpose and intent. It is the purpose of this chapter to regulate sexually oriented business to promote the health, safety, morals, and general welfare of the citizens of the town and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the town. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. (1994 Code, § 10-203)

9-502. Definitions. (1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show

images to five or fewer persons per machine at any one time, anywhere the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore" or "adult video store" means a commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations, which depict or describe "specified sexual activities" or "specified anatomical areas;" or

(b) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

(3) "Adult cabaret" means a nightclub, bar, restaurant or similar commercial establishment which regularly features:

(a) Persons who appear in a state of nudity;

(b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(c) Films, motion pictures, video-cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(4) "Adult motel" means a hotel, motel or similar commercial establishment which:

(a) Offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and may have a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions. This definition shall not include "R-rated" films so defined by the Motion Picture Association; or

(b) Offers a sleeping room for rent more than two (2) times in a period of ten (10) hours; or

(c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours; or

(d) Offers or allows a discount or refund which is less than half the normal daily rate.

(5) "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." This definition shall not include "R-rated" films so defined by the Motion Picture Association.

(6) "Adult telecommunications business" means a commercial establishment where, by means of telephone, any communication characterized by the description of "specified anatomical areas" or "specified sexual activities" is made for commercial purposes to any person, regardless of whether the maker of such communication placed the call. Adult telecommunication businesses are exempt from the permit requirements of this chapter but shall comply with its locational requirements.

(7) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(8) "Law enforcement authority" means the head of law enforcement for the Town of Arlington or his designated agent.

(9) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(10) "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

(11) "Establishment" means and includes any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(c) The addition of any sexually oriented business to any other existing sexually oriented business; or

(d) The relocation of any sexually oriented business.

(12) "Nude model studio" means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

(13) "Nudity" or a "state of nudity" means:

(a) The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or

(b) A state of dress which fails to cover opaquely a human buttock, anus, male genitals, female genitals, or areola of the female breast.

(14) "Operates" or "causes to be operated" means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operating a sexually oriented business whether or not that person is an owner, part-time owner, or permittee of the business.

(15) "Permittee" means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as

an applicant on the application for a permit. "Permittee" shall include an operator of an adult telecommunications business only for purposes of this chapter.

(16) "Person" means an individual proprietorship, partnership, corporation, association, or other legal entity.

(17) "Residential district" means a district whose designation begins with the letter "R" or "FA-R" according to the Arlington Zoning Ordinances.

(18) "Residential use" means any building or portion of a building used as a dwelling unit.

(19) "Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(20) "Sexual encounter center" means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(21) "Sexually oriented business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or, for the purposes noted in § 9-502(6) "adult telecommunications business."

(22) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic regions;

(ii) Buttock; and

(iii) Female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernable turgid state, even if completely and opaquely covered;

(c) Use of artificial devices or inanimate objects to depict any of the items described above.

(23) "Specified sexual activities" means:

(a) Human genitals in a state of sexual stimulation or arousal;

(b) Acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast;

(d) Acts of bestiality;

(e) Use of artificial devices or, inanimate objects to depict any of the activities described in this section.

(24) "Substantial enlargement" of a sexually oriented business means the increase in floor area occupied by the business by more than twenty-five percent (25%), as the floor area exists on the date of enactment of the ordinance comprising this chapter.

(25) "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:

(a) The sale, lease or sublease of the business;

(b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (1994 Code, § 10-203)

9-503. Classification. Sexually oriented businesses are classified as follows:

(1) Adult arcades;
(2) Adult bookstores or adult video stores;
(3) Adult cabarets;
(4) Adult motels;
(5) Adult motion picture theaters;
(6) Adult telecommunications businesses, but only for purposes of this chapter;
(7) Adult theaters;
(8) Escort agencies;
(9) Nude model studios; and
(10) Sexual encounter centers. (1994 Code, § 10-203)

9-504. Permit requirements. (1) A person commits an offense if he operates a sexually oriented business without a valid permit, issued by the town for the particular type of business.

(2) For purposes of this chapter, the issuance, suspension, and revocation of a permit for a sexually oriented business located within the Town of Arlington shall be handled by the recorder or his/her assigned agent.

(3) An application for a permit must be made on a form provided by the town. An application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who must comply with § 9-518 of this chapter shall submit a diagram meeting the requirements of § 9-518.

(4) The applicant must be qualified according to the provisions of this chapter.

(5) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has any interest in the business must sign the application for a permit as applicant. Each applicant must be qualified under § 9-505 and each applicant shall be considered a permittee if a permit is granted.

(6) The fact that a person possesses a valid theater permit, dance hall permit, or public house of amusement permit does not exempt him from the requirement of obtaining a sexually oriented business permit. A person who operates a sexually oriented business and possesses a theater permit, public house of amusement permit or dance hall permit shall comply with the requirements and provisions of this chapter, as well as the requirements and provisions of all other Arlington building, fire, health and other permit code.

(7) A permit may be issued only in the name of a natural person.

(8) Every permittee shall, before employing any person or using the services of an independent contractor in the operation of or entertainment at a sexually oriented business, secure from the recorder or his/her assigned agent an employee's permit authorizing such person to serve as an employee or independent contractor in the place of business of the sexually oriented business permittee. It is made the duty of the sexually oriented business permittee to ensure that each person so employed in permittee's place of business has an employee's permit as above required, which permit must be upon the sexually oriented business premises at all times subject to inspection by the recorder or his/her assigned agent, or his duly authorized agents.

No employee's permit may be issued for any person who has been convicted of an offense listed in § 9-505(1)(h)(i) for which the time period required in § 9-505(1)(h)(ii) has not elapsed.

An employee's permit issued pursuant to the provisions of this section shall be valid for a three (3) year period and shall be subject to suspension or revocation for breaches described in §§ 9-509(1) and (2) of this chapter. An employee's permit shall be revoked upon the employee's or independent contractor's conviction of an offense listed in § 9-505(1)(h)(I).

Applications for renewal shall be made in the same manner as applications for original permits upon forms to be prescribed by the recorder or his/her assigned agent. Such permits shall not be transferable and must be surrendered to the recorder or his/her assigned agent within five (5) days from the date the holder thereof ceases to work for or at a sexually oriented business, and it shall be the duty of the sexually oriented business permittee to notify the recorder or his/her assigned agent within five (5) days of the termination of the employment for which such permit was issued. (1994 Code, § 10-203)

9-505. Issuance of permit. (1) The recorder or his/her assigned agent shall approve the issuance of a permit to an applicant within thirty (30) days

after receipt of an application unless the recorder or his/her assigned agent finds one or more of the following to be true:

(a) An applicant is under eighteen (18) years of age.

(b) An applicant is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.

(c) An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.

(d) An applicant has been convicted of a violation of a provision of this chapter, other than the offense of operating a sexually oriented business without a permit, within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

(e) The permit fee required by this chapter has not been paid.

(f) An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding twelve (12) months and has demonstrated an inability to operate or manage a sexually oriented business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(g) An applicant or the proposed establishment is in violation of or is not in compliance with §§ 9-507, 9-510 through 9-518 or 9-519 of this chapter.

(h) An applicant has been convicted of a crime:

(i) Involving any of the following offenses as described in Tennessee Code Annotated, title 39, or juvenile laws of Tennessee, or corresponding offenses of other, including federal, jurisdiction:

(A) Prostitution;

(B) Promoting prostitution;

(C) The obscenity laws;

(D) Sale, loan, distribution, or exhibition to one or more minors of material which is harmful to minors;

(E) Use of minors for obscene purposes;

(F) Promotion of performances including sexual conduct by minors;

(G) Indecent exposure;

(H) Statutory rape;

(I) Rape, aggravated rape, sexual battery, or aggravated sexual battery;

(J) Incest;

(K) Criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses.

(ii) For which:

(A) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(B) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(C) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or a combination of misdemeanor offenses occurring within any twenty-four (24) month period.

(2) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

(3) An applicant who has been convicted or whose spouse has been convicted of any offense listed in § 9-505(1)(h)(i) hereof may qualify for a sexually oriented business permit only when the time period required by § 9-505(1)(h)(ii) hereof has elapsed.

(4) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the street address and any post office address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time. (1994 Code, § 10-203)

9-506. Fees. (1) The annual fee for a sexually oriented business permit is five thousand dollars ($5,000).

(2) The annual fee for a permit issued on a date other than the annual expiration date shall be prorated according to the number of days remaining until the expiration date.

(3) The applicant for an employee's permit shall pay to the recorder or his/her assigned agent the sum of fifteen dollars ($15.00) therefore.

(4) Fees shall be collected by the recorder or his/her assigned agent at the time of issuance of the permit. (1994 Code, § 10-203)

9-507. Inspection. (1) An applicant or permittee shall permit representatives of the recorder or his/her assigned agent, health department, fire services division, housing and community development division and construction code enforcement division to inspect the premises of a sexually

oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(2) A person who operates a sexually oriented business or his agent, employee or independent contractor, commits an offense if he refuses to permit a lawful inspection of the premises by a representative of the recorder or his/her assigned agent or health department at any time it is occupied or open for business. (1994 Code, § 10-203)

9-508. Expiration of permit. Each permit shall expire December 31 of each year and may be renewed only by making application as provided in § 9-504(1) of this chapter. Application for renewal should be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected. (1994 Code, § 10-203)

9-509. Suspension/revocation of permit. (1) Suspension. The recorder or his/her assigned agent shall suspend a permit for a period not to exceed thirty (30) days if he determines that a permittee or an agent of a permittee or independent contractor employed at the licensed premises has:

(a) Violated or is not in compliance with §§ 9-507, 9-511, 9-512, 9-514, 9-515, 9-516 9-517, 9-518 or 9-519 of this chapter;

(b) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;

(c) Refused to allow an unimpeded inspection of the sexually oriented business premises as authorized by this chapter;

(d) Knowingly permitted gambling by any person on the sexually oriented business premises;

(e) Demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers.

(2) Revocation. (a) The recorder or his/her assigned agent shall revoke a permit if a cause of suspension in subsection (1) occurs and the permit has been suspended within the preceding twelve (12) months.

(b) The recorder or his/her assigned agent shall revoke a permit if he determines that:

(i) A permittee gave false or misleading information in the material submitted to the recorder or his /her assigned agent during the application process;

(ii) A permittee or an employee, agent, or independent contractor employed on the premises has allowed possession, use, or sale of controlled substances on the premises;

(iii) A permittee or an employee, agent, or independent contractor employed on the premises has allowed prostitution on the premises;

(iv) A permittee or an employee, agent, or independent contractor employed on the premises operated the sexually oriented business during a period of time when the permittee's permit was suspended;

(v) A permittee has been convicted of an offense listed in § 9-505(1)(h)(i) for which he time period required in § 9-505(1)(h)(ii) has not elapsed;

(vi) On two (2) or more occasions with a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in § 9-505(1)(h)(i) for which a conviction has been obtained, and the person or persons were employees, agents or independent contractors employed on the premises of the sexually oriented business at the time the offenses were committed;

(vii) A permittee or an employee, agent, or independent contractor employed on the premises has allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the same meaning as it is defined in Tennessee Code Annotated, § 39-13-501(6); or

(viii) A permittee is delinquent in payment to the town for hotel occupancy taxes, ad valorem taxes, or sales taxes related to the sexually oriented business.

(c) The fact that a conviction is being appealed shall have no effect on the revocation of the permit.

(d) § 9-509(2)(b)(vii) hereof does not apply to adult motels as a ground for revoking the permit unless the permittee, employee, agent or independent contractor employed at the premises allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

(e) When the recorder or his/her assigned agent revokes a permit, the revocation shall continue five (5) years and no sexually oriented business permit shall be issued to that permittee for five (5) years from the date revocation became effective. If, subsequent to revocation, the recorder or his/her assigned agent finds that the basis for the revocation has been corrected or abated, a permit may be granted to the permittee if at least ninety (90) days have elapsed since the date the revocation became effective. If the permit was revoked under subsection § 9-509(2)(b)(v) hereof, an applicant may not be granted another permit until the appropriate number of years under § 9-504(2)(viii)(B) has elapsed. (1994 Code, § 10-203)

9-510. Hearings and appeals. (1) If the recorder or his/her assigned agent denies the issuance of a permit for a reason other than a violation of

§ 9-512 of this chapter, or a permittee, applicant or business desires to appeal his/her or its revocation or suspension, it shall be done in the following manner:

(a) Written notice of the denial or proposed suspension or revocation shall be sent to the permittee by certified mail, return receipt requested, or have delivered by process server.

(b) The appeal of the denial, revocation, or suspension must be filed with the recorder or his/her assigned agent within ten (10) calendar days of receipt of notice.

(c) A hearing must be scheduled and held before the recorder or his /her assigned agent within sixty (60) days, unless continued to a later date by consent of the parties.

(d) When a permit is suspended or revoked, the suspension or revocation of the permit shall not occur within sixty (60) days of receipt of notice described in subsection (a) hereof or prior to the date of the hearing, whichever is less, unless the health officer determines there to be a health hazard or risk of disease at said location. No issuance of a new permit for that permittee, business, or location shall occur until after the date set for hearing has passed.

(e) A decision of the recorder or his/her assigned agent must be made in writing to all parties within five (5) days of the conclusion of the hearing.

(f) Any appeal of the decision of the recorder or his/her assigned agent shall be made by common law writ of certiorari to a court of competent jurisdiction. Said appeal must be filed within thirty (30) calendar days after receipt of a written decision from the recorder or his/her assigned agent or offer of delivery of such decision is made.

(g) No permit shall be extended during a court appeal without a court ordered writ of supersedeas. (1994 Code, § 10-203)

9-511. Transfer of permit. A permittee shall not transfer his permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the street address designated in the application. (1994 Code, § 10-203)

9-512. Location. (1) A person commits an offense if he operates or causes to be operated a sexually oriented business within fifteen hundred (1,500) feet of:

(a) A duly organized and recognized church;

(b) A public or private elementary or secondary school;

(c) A boundary of a residential or landmark district as defined in this code;

(d) A public park; or

(e) The property line of a lot devoted to a residential use as defined in this chapter.

(2) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within fifteen hundred (1,500) feet of another sexually oriented business.

(3) A person commits an offense if he causes or permits the operation, establishment, or maintenance of more than one (1) sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(4) For the purpose of subsection (1), measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an effected public park, residential district, or local historic district.

(5) For purposes of subsection (2) of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(6) Any sexually oriented business lawfully operating on the date of enactment of the ordinance comprising this chapter, that is in violation of subsections (1), (2), or (3) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued. In the event of termination of such a sexually oriented business, anyone applying for a reopening or for another sexually oriented business establishment at the premises, will be considered a new applicant. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within fifteen hundred (1,500) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.

(7) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a church, public or private elementary or secondary school, public park, residential district, or residential lot within fifteen hundred (1,500) feet of the sexually oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a permit is submitted after a permit has expired or has been revoked. (1994 Code, § 10-203)

9-513. Exemption from location restrictions. (1) If the recorder or his/her assigned agent denies the issuance of a permit to an applicant because the location of the sexually oriented business establishment is in violation of § 9-512 of this chapter, then the applicant may, not later than ten (10) calendar days after receiving notice of the denial, file with the comptroller a written request for an exemption from the locational restrictions of § 9-512.

(2) If the written request is filed with the recorder or his/her assigned agent within the ten (10) day limit, the Arlington Board of Mayor and Aldermen shall consider the request. The comptroller shall set a date for the hearing within sixty (60) days from the date the written request is received, and shall give notice to the public of such hearing according to the provisions of Tennessee Code Annotated, § 8-44-103.

(3) The Arlington Board of Mayor and Aldermen shall hear and consider evidence offered by any interested person.

(4) The Arlington Board of Mayor and Aldermen may, in its discretion, grant an exemption from the locational restrictions of § 9-512 if it makes the following findings:

(a) That the location of the proposed or existing sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public welfare;

(b) That the granting of the exemption will not violate the spirit and intent of this chapter of the code;

(c) That the location of the proposed or existing sexually oriented business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight;

(d) That the location of an additional sexually oriented business or the continued location of an existing sexually oriented business in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban renewal or restoration; and

(e) That all other applicable provisions of this chapter will be observed.

(5) The Arlington Board of Mayor and Aldermen shall grant or deny the exemption by a majority vote. The vote shall be decided on the basis of a preponderance of the evidence. The decision of the Arlington Board of Mayor and Aldermen is final. Appeal shall lie by common law writ of certiorari to a court of competent jurisdiction. Such an appeal must be made within thirty (30) days of the Arlington Board of Mayor and Aldermen vote.

(6) If the Arlington Board of Mayor and Aldermen grants the exemption, the exemption is valid for one year from the date of the Arlington Board of Mayor and Aldermen's action. Upon the expiration of an exemption, the sexually oriented business is in violation of the locational restrictions of § 9-512 until the applicant applies for and receives another exemption.

(7) If the Arlington Board of Mayor and Aldermen denies the exemption, the applicant may not re-apply for an exemption until at least twelve

(12) months have elapsed since the date of the Arlington Board of Mayor and Aldermen's action.

(8) The grant of an exemption does not exempt the applicant from any other provisions of this chapter other than the locational restrictions of § 9-512. (1994 Code, § 10-203)

9-514. Additional regulations for escort agencies. (1) An escort agency permittee shall not employ, use or allow the services of any person under the age of eighteen (18) years in the operation of such establishment.

(2) A person commits an offense if he acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years. (1994 Code, § 10-203)

9-515. Additional regulations for nude model studios. (1) A nude model studio shall not employ, use or allow the services of any person under the age of eighteen (18) years in the operation of such establishment.

(2) A person under the age of eighteen (18) years commits an offense if he appears in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to public view or persons of the opposite sex.

(3) A person commits an offense if he appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(4) There shall be no bed, sofa, or mattress in any room on the premises of a nude model studio except that a sofa may be placed in a reception room open to the public. (1994 Code, § 10-203)

9-516. Additional regulations for adult theaters and adult motion picture theaters. (1) The requirement and provisions of other sections of this code remain applicable to adult theaters and adult motion picture theaters.

(2) A person commits an offense if he knowingly allows a person under the age of eighteen (18) years to appear in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

(3) A person under the age of eighteen (18) years commits an offense if he knowingly appears in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

(4) It is a defense to prosecution under subsections (2) and (3) of this section if the person under eighteen (18) years was in a restroom not open to public view or persons of the opposite sex. (1994 Code, § 10-203)

9-517. Additional regulations for adult motels. Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten

(10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter. (1994 Code, § 10-203)

9-518. Regulations pertaining to exhibition of sexually explicit films or videos. (1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The recorder or his/her assigned agent may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approvals of the recorder or his/her assigned agent or his designee.

(d) It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at

least one (1) of the manager's stations. The view required in this subsection must be by direct sight from the manager's station.

(f) It shall be the duty of the owners and operators, and it shall also be the duty of any agents, employees and independent contractors employed at the premises present in the premises to ensure that the view area specified in subsection (e) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a) of this section.

(g) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) footcandle as measured at the floor level.

(h) It shall be the duty of the owners and operators and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(2) A person having a duty under subsections (a) through (h) of subsection (1) above commits an offense if he fails to fulfill that duty. (1994 Code, § 10-203)

9-519. Display of sexually explicit material to minors. (1) A person commits an offense if, in a business establishment open to a person under the age of eighteen (18) years, he displays a book, pamphlet, newspaper, magazine, film or video cassette, the cover of which depicts, in a manner calculated to arouse sexual lust or passion for commercial gain or to exploit sexual lust or perversion for commercial gain, any of the following:

(a) Human sexual intercourse, masturbation, or sodomy;

(b) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts;

(c) Less than completely and opaquely covered human genitals, buttocks, or that portion of the female breast below the top of the areola; or

(d) Human male genitals in a discernible turgid state, whether covered or uncovered.

(2) In this section "display" means to locate an item in such a manner that, without obtaining assistance from an employee of the business establishment:

(a) It is available to the general public for handling and inspection; or

(b) The cover or outside packaging on the item is visible to members of the general public. (1994 Code, § 10-203)

9-520. Enforcement. (1) Except as provided by subsection (2), any person violating § 9-512 of this chapter, upon conviction, is punishable by a fine not to exceed fifty dollars ($50.00) per day per violation. It shall be the duty of the recorder or his/her assigned agent to enforce the provisions of this chapter. Said ordinance may also be enforced by injunctive relief through a court of competent jurisdiction.

(2) If the sexually oriented business involved is a nude studio or sexual encounter center, then violation of § 9-512 of this chapter is punishable as a misdemeanor.

(3) Except as provided by subsection (2), any person violating a provision of this chapter other than § 9-512, upon conviction, is punishable by a fine not to exceed fifty dollars ($50.00) per day per violation, in accordance with this chapter.

(4) It is a defense to prosecution under §§ 9-504(1), 9-512, or 9-515(4) that a person appearing in a state of nudity did so in a modeling class operated:

(a) By a school licensed by the State of Tennessee; a college, community college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferrable to a college, community college, or university supported entirely or partly by taxation; or

(c) In a structure:

(i) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(ii) Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(iii) Where no more than one nude model is on the premises at any one time.

(5) It is a defense to a prosecution under § 9-504(1) or § 9-512 that each item of descriptive, printed, film, or video material offered for sale or rental, taken as whole, contains serious literary, artistic, political, or scientific value.

(6) No alcohol permit may be issued for any sexually oriented business premises within the prescribed areas of § 9-512. (1994 Code, § 10-203)

9-521. Injunction. A person who operates or causes to be operated a sexually oriented business without a valid permit or in violation of § 9-512 of this chapter is subject to a suit for injunction as well as prosecution for criminal violations. (1994 Code, § 10-203)

CHAPTER 6

FOOD CODE

SECTION

9-601. Definitions.
9-602. Approval of plans for construction, alteration, etc., of food service establishment.
9-603. Permit required; fee.
9-604. Permit application.
9-605. Issuance of permit.
9-606. Display of permit; not transferable.
9-607. Revocation or suspension of permit.
9-608. Sale of food or drinks on streets or from vehicles, etc.
9-609. Food processors and distributors outside Arlington, Tennessee.
9-610. Temporary food service establishment.
9-611. Collection and analysis of food samples.
9-612. Adulterated or misbranded food.
9-613. Report of unwholesome food.
9-614. Transporting bakery food.
9-615. Right of entry into food establishments.
9-616. Interpretation of food code; policies and standards of health officer.
9-617. Enforcement of food code; rules and regulations of health department.
9-618. Application of this chapter.
9-619. Cleanliness of employees.
9-620. Health of employee.
9-621. General requirements as to food.
9-622. Maintenance of premises.
9-623. Floors, walls, and ceilings.
9-624. Doors and screens.
9-625. Water supply, sewage disposal, and plumbing.
9-626. Lighting.
9-627. Ventilation.
9-628. Maintenance of fixtures.
9-629. Refrigerators, iceboxes, cold-storage rooms, and air conditioners.
9-630. Utensils and equipment generally.
9-631. Sanitary design, construction, and installation of equipment and utensils.
9-632. Sanitizing dishes and utensils.
9-633. Paper vessels and straws.
9-634. Stoves, ranges, and hoods.
9-635. Milk or food in bottles or containers.
9-636. Wrapping foods.
9-637. Common drinking cups.

9-638. Shelf or counter coverings.
9-639. Storage and disposal of garbage and rubbish.
9-640. Birds and animals prohibited; exception.
9-641. Separation of unrelated activities.
9-642. Sleeping quarters; accumulation of unnecessary articles.
9-643. Toilet facilities.
9-644. Handwashing facilities.
9-645. Basements.
9-646. Dressing rooms and lockers.
9-647. Storage of soiled linens, coats, and aprons.
9-648. Display, storage and service of food.
9-649. Storage of potentially hazardous food.
9-650. Coffee creamer and refrigerated cream dispensers.
9-651. Presetting of tables.
9-652. Transportation of food.
9-653. Use and storage of poisonous and toxic materials.
9-654. Lounges and bars.
9-655. Grocery stores.
9-656. Candy counters.
9-657. Food processing plant.
9-658. Caterers generally.
9-659. Industrial caterers.
9-660. Salvage foods establishment.
9-661. Hucksters.
9-662. Pedestrian vendors.
9-663. Farmer's market.
9-664. Deleted.

9-601. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

(1) "Adulterated." The condition of a food:

(a) If it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;

(b) If it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established;

(c) If it consists in whole or in part of any filthy, putrid, or decomposed substance;

(d) If it has been processed, prepared, packed, or held under unsanitary conditions, as hereinafter set forth, whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(e) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or

(f) If it contains anything other than claimed.

(2) "Approval." Acceptable to the health officer based on his determination as to conformance with appropriate standards and good public health practices, as hereinafter set forth.

(3) "Bakery." A plant where bread, rolls, cakes, doughnuts, pies, and similar products are processed, mixed, baked, packaged, or stored for sale and distribution to either retail or wholesale outlets.

(4) "Brewery." A plants where malt liquors or other alcoholic beverages are processed, mixed, and/or packaged in wholesale lots for distribution.

(5) "Carbonated beverage plant." A plant where non-alcoholic beverages are processed, mixed, and/or packaged in wholesale lots for distribution.

(6) "Drive-in restaurant." An eating and drinking establishment where refreshments and meals are processed, prepared, and primarily offered for sale for consumption outside the establishment within the parking area or off the premises under permit from the health department.

(7) "Easily cleanable." Readily accessible and constructed of such material and finish that any residue may be completely removed by an approved cleaning method.

(8) "Employee." Any person working in a food service establishment who transports food or food containers, engages in food preparation or service, or comes in contact with any food utensil or equipment.

(9) "Equipment." All furnishing such as stoves, ranges, hoods, cutting blocks, tables, counters, refrigerators, steam tables, sinks, dishwashing machines, and similar items, other than utensils or kitchenware which are used in the operation of a food service establishment.

(10) "Farmer's market." A place designated by a sponsoring organization where only fruits, vegetables, melons, berries, nuts, or honey produced by the sellers thereof are kept and offered for retail sale.

(11) "Food." Any raw, cooked, or processed edible substance, ice, or ingredient whether simple, mixed, or compound of plant, animal, or liquid origin containing body nutrients that are consumed and assimilated by an organism to maintain life and growth and sustain physical nourishment.

(12) "Food catering." The transporting, serving, or the dispensing of food in any way to parties, meetings, and gatherings where the food is prepared in an approved kitchen at one location and consumed at another location.

(13) "Food distributor." A person who offers food in wholesale lots to another for sale or storage.

(14) "Food environmentalist." Inspectors or any other person employed by the Memphis and Shelby County Health Department and assigned the task of food control.

(15) "Food packaging plant." A place where non-perishable food is package or re-packaged, but not processed.

(16) "Food processing." The manufacture, cooking, mixing, preparation, packaging, or handling of food which is to be stored, transported, displayed, or offered for sale in wholesale lots for consumption on another premises from which it originates.

(17) "Food salvage distributor." A person who engages in the business of distributing, selling, or otherwise dealing in any impaired product enumerated in the definition of a "food salvager."

(18) "Food salvager." A person who sorts, cleans, reconditions, labels, or re-labels, re-packages or re-coopers, culls, or by other approved methods, reclaims discarded or damaged products and sells, offers for sale, or distributes for human or animal consumption any salvaged food; beverage, including beer, wine, and distilled spirits; vitamin; food supplement; dentrifice; drug; cosmetic; single-service food container or utensil; straw or quill; paper napkin; or any other similar food or food-contact surface that has been damaged or contaminated by fire, water, smoke, chemicals, or by any other means, whether during growth, storage, or in transit, processing, or manufacture.

(19) "Food service establishment." Any bakery, restaurant, lunch stand, café, public or private market, kiosk, store, storehouse, storage warehouse, cafeteria, tea room, sandwich shop, fountain, delicatessen, tavern, lounge, nightclub, catering kitchen, commissary, food processing plant, grocery, fish market, packaged goods, drive-in grocery, or any place in or from which meat, fish, oysters, birds, fowl, vegetables, fruit, milk, ice cream, ice, beverages, or industrial feeding systems are manufactured, kept, stored, or offered for sale; or any private, public, or non-profit organization or institution routinely serving food, or where any other food intended for consumption by human beings is manufactured, kept, stored, or offered for sale, disposition, or distribution as food, with or without charge. A huckster shall not be considered a food service establishment.

(20) "Food storage warehouse." A warehouse in which food is stored.
(21) "Food vendor." A person engaged in the business of distributing or servicing vending machines which dispense food.

(22) "Grocery store." An establishment where, with the exception of fresh or raw vegetables, fruit and nuts, food that has been placed in containers or pre-packaged is stored, displayed, or offered for sale to retail customers to be prepared, cooked, or processed at another location. Other types of businesses such as a meat market, restaurant, bakery, or delicatessen may be incorporated into the area occupied by the grocery store, but will not be included in this definition.

(23) "Huckster." Any person who sells or peddles from a vehicle on the public thoroughfares of Arlington, Tennessee, only fruits, vegetables, melons, berries, or nuts, all of which may be produced by the person or purchased from another source.

(24) "Industrial catering." The transporting, dispensing, serving, or offering for sale of food on a routine scheduled route, which has been manufactured and prepared in an approved food processing plant. This type catering is where a contract is entered into by two (2) or more parties for food service and usually at schools, construction sites, industrial plants, and other similar premises.

(25) "Industrial catering stand." A food service establishment consisting of fifty (50) square feet or less, and permanently located in a shopping center or pedestrian mall where food is stored, displayed, and offered for sale from within the catering stand and for consumption outside the stand. Only prepackaged food from an approved source shall be stored, displayed, or offered for sale for the establishment to be classified as an industrial catering stand.

(26) "Industrial catering trucks." Those vehicles which contain pre-packaged food and/or individually proportioned, automatically dispensed hot coffee to one or more locations on private or public properties under contract with the approved caterer.

(27) "Kitchenware." All multi-use utensils other than tableware used in the storage, preparation, conveying, or serving of food.

(28) "Labeling." The marking, designation, or descriptive device on food containers and/or articles of food denoting the name of the product, ingredients thereof, and name and address of the manufacturer and/or distributor. Other information regarding labeling may be required by the health officer.

(29) "Meat, vegetable, and fish." "Meat" includes every part of any land animal and the eggs thereof; "Vegetable" includes every article of human consumption as food which is not meat, fish, or milk; "Fish" includes every part of any of the numerous cold-blooded aquatic vertebrates or invertebrates when either of these foods is held or offered or intended for sale or consumption as food for human beings at any place within the town.

(30) "Meat market." A place of business or an area within a grocery store in which raw meats and/or prepared cold cuts or cheeses are stored, processed, displayed, or offered for retail sale.

(31) "Misbranded." The presence of, or the lack of, any written, printed, or graphic matter upon or accompanying any food or container of food, which is found to be false or misleading, or which violates any applicable federal, state, or local labeling requirements.

(32) "Package goods store." A food establishment in which food is stored, displayed, or offered for sale in the packaged form and is intended for consumption off the premises under permit from the health department. No other type of business such as a meat market, restaurant, bakery, delicatessen,

or any other type food service establishment shall be located in the area occupied by the package goods store.

(33) "Pedestrian vendor." A person who engages in the business of dispensing food from a mobile vehicle which operates within the confines of a pedestrian mall, shopping center, or a city park.

(34) "Perishable food." Any food of such type, or in such condition as may spoil.

(35) "Person in charge." The individual present in a food service establishment at the time of the regulatory inspection. If no individual is the apparent delegated supervisor or responsible person in charge, then any employee present shall be considered the person in charge.

(36) "Potentially hazardous food." Any perishable food which consists in whole or in part of milk or milk products, eggs, meat, cheese, poultry, fish, mollusk or crustacea, or other foods capable of supporting pathogenic microorganisms.

(37) "Reciprocal inspection." An inspection made, a laboratory analysis produced, or the conducting of a sanitation program by a health department or approved official agency thereof, in the area where a certain product is processed for shipping in conjunction with another health department or approved official agency thereof, in the receiving area of that particular product.

(38) "Restaurant." Any establishment where food is processed, prepared by cooking or served raw, and offered for sale primarily for consumption on the premises.

(39) "Retail bakery." A place of business where bread, rolls, cakes, doughnuts, pies, and similar pastries are processed, mixed, baked, packaged, and sold to consumers for the primary consumption on the premise currently under permit from the health department.

(40) "Safe temperatures." As applied to perishable food, temperature of 45 degrees F. (7.222 degrees C.), or below, and 140 degrees F.(60.000 C.), or above provided that eggs in the shell shall be kept at a temperature that is not conducive to spoilage.

(41) "Salvageable merchandise." Any item listed under the definition of "food salvager" which can be sorted, cleaned, reconditioned, labeled, or re-labeled, re-packaged or re-cooped, culled, or reclaimed or salvaged by other approved methods to the satisfaction of the health officer.

(42) "Sanitize." An effective bactericidal treatment of equipment, utensils, and kitchenware by a process which has been approved by the health officer, as provided by the rules, regulations, or policies of the health department, as being effective in destroying microorganisms, including pathogens.

(43) "Shopping center." A group of two (2) or more commercial establishments that occupies at least fifty thousand (50,000) square feet of gross leasable area, located in a building or buildings that are planned, developed, owned, and managed as a unit.

(44) "Single-service articles." Cups, containers, lids or closures, plates, knives, forks, spoons, stirrers, paddles, straws, placemats, napkins, doilies, grocery bags, wrapping materials, and all similar articles which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and which are intended by the manufacturer and generally recognized by the public as for one usage only, and then to be properly discarded.

(45) "Snack bar." Any food service establishment, other than a "Restaurant" or "Drive-In Restaurant", where food is processed, prepared, cooked, or served raw, and offered for sale primarily for the consumption off the premise.

(46) "Sponsoring organization." Any church, school, or non-profit organization or association devoting its efforts and property to the improvement of human rights, or conditions, in the community.

(47) "Tableware." All multi-use eating and drinking utensils including flatware (knives, forks, and spoons).

(48) "Temporary food service establishment." Any food service establishment which operates at an approved and fixed location for a temporary period of time, not to exceed two (2) weeks. There shall be no more than two (2) temporary permits issued for the same location within any six (6) month period.

(49) "Utensil." Any tableware and kitchenware used in the storage, preparation, conveying, or serving of food.

(50) "Wholesale meat plant." A place of business where meat, meat products, fish, poultry, or other similar products are processed, packaged, or stored for distribution to retailers.

(51) "Wholesale." When applied to food for human consumption, a product that is in sound condition, clean, and free from adulteration. (1994 Code, § 8-601)

9-602. Approval of plans for construction, alteration, etc., of food service establishment. When a food service establishment if constructed or remodeled, or when an existing structure is converted for use as a food service establishment, properly prepared plans and specifications for the construction, remodeling, or alteration, showing layout, arrangement, and construction materials of the work area, and the location size and type of fixed equipment and facilities shall be submitted to the health officer for approval before the work is begun. No building permit to construct or remodel a food service establishment shall be issued until plans have been approved by the health department. (1994 Code, § 8-602)

9-603. Permit required; fees. No person shall engage in the manufacture, sale, or distribution of any food without a permit from the health department. No business license shall be issued to any person to engage in the

manufacture, sale, or distribution of food, until a copy of a permit to engage in that business has been issued by the health department.

The health officer shall determine which type of permit each establishment must obtain. If an establishment does not fit into any type of business listed, the health officer shall have the authority to assign it to one of those listed which is in his judgment most reasonable.

The temporary permit shall be issued for a period not to exceed two (2) weeks, beginning from the date of operation, at a fee which will be fifty (50) percent of the annual rate.

Permit fees for food service establishments shall be according to the following schedule:

Type of Establishment	Annual Fees
From 1 - 25 seats	$ 25.00
From 26 - 50 seats	$ 40.00
From 51 - 75 seats	$ 60.00
Over 75 seats	$ 75.00
Grocery Stores:	
Under 1,200 square feet	
Grocery store	$ 25.00
With a meat market	$ 10.00
With a bakery	$ 10.00
Between 1,200 and 10,000 square feet	
Grocery store	$ 37.50
With a meat market	$ 15.00
With a bakery	$ 15.00
Between 10,000 and 20,000 square feet	
Grocery store	$ 75.00
With a meat market	$ 30.00
With a bakery	$ 30.00
Over 20,000 square feet	
Grocery store	$112.50
With a meat market	$ 37.50
With a bakery	$ 37.50
Other:	
Caterer, food	$150.00
Caterer, industrial (per truck, vehicle or stand)	$ 30.00
Distributor, food	$ 37.50
Beverage plant, carbonated	
Brewery	$150.00
Bakery, retail	$ 37.50

Bakery, wholesale	$150.00
Huckster	$ 22.50
Farmer's market	$ 7.50
Meat market, retail	$ 37.50
Meat plant, wholesale	$ 75.00
Package goods	$ 22.50
Packaging plant, food	$ 30.00
Processing plant, food	$150.00
Restaurant, drive-in	$ 37.50
Snack bar	$ 25.00
Salvager, food, - or food salvage distributor	$150.00
Vendor, food	$ 75.00
Vendor, pedestrian (per truck or vehicle)	$ 22.50
Vendor, frozen dessert - motorized	$ 22.50
Vendor, frozen dessert - pushcart	$ 7.50
Warehouse, food storage	$ 75.00
Care home	$ 22.50
Nursing homes (same as restaurant, number of seats = capacity number of patients)	
Boarding homes (same as restaurant, number of seats = capacity number of boarders)	

(1994 Code, § 8-603)

9-604. <u>Permit application</u>. Any owner or manager or their legal designee who wants a permit required by this chapter shall make a written application therefor at the Memphis and Shelby County Health Department on forms provided by that department. (1994 Code, § 8-604)

9-605. <u>Issuance of permit</u>. A permit required by this chapter will be granted only after an inspection is made and approval given by the health department and the payment of the appropriate fee by the applicant. The inspection and approval shall be of the appropriateness of the location where food may be manufactured, stored, exposed for sale, or sold, and the appropriateness of the methods to be used in the handling of the food, together with the health of the persons engaged in the manufacture, sale, or distribution of the food, as hereinafter set out in this chapter and according to zoning regulations. (1994 Code, § 8-605)

9-606. <u>Display of permit</u>. Every permit issued under this chapter shall be conspicuously displayed in the establishment where food is manufactured,

sold, or distributed. No permit shall be transferable from one location to another, or from one person to another, and change of location or ownership shall require issuance of a new permit. (1994 Code, § 8-606)

9-607. Revocation or suspension of permit. The health officer shall have the power, and it shall be his duty to suspend or revoke any permit issued under this chapter where it appears that the provisions of this chapter have been violated by the person engaging in the manufacture, sale, or distribution of food. The person holding the permit shall be given reasonable notice and an opportunity to be heard as to why the permit should not be revoked or suspended. The notice may be given by the environmentalist on the regular inspection form or may be in the form of an official letter from the health department.

In each violation, where a permit is suspended or revoked, the holder of the permit may appeal the health officer's decision to the board of health whose decision on the matter shall be binding. (1994 Code, § 8-607)

9-608. Sale of food or drinks on streets or from vehicles, etc. It shall be unlawful for any person to sell or offer for sale on any street or road in the town or from any vehicle thereon, or from any vacant lot or temporary or improvised stand or structure in the town, any fruits, vegetables, ice cream, or other food or drinks except as provided in §§ 9-610, 9-658, and 9-664. (1994 Code, § 8-608)

9-609. Food processors and distributors outside Arlington, Tennessee. Food processors and/or distributors located outside the town may, at the discretion of the health officer, sell potentially hazardous food products within Arlington under a reciprocal direct inspection arrangement, after first securing a food permit, as required by this chapter, from the health officer. All food processors and/or distributors located outside Arlington shall meet the sanitary standards, definitions, and requirements of this chapter, and the rules and regulations promulgated by the health officer, or equivalent standards and regulations. The health officer is hereby authorized to establish acceptable reciprocal or direct inspection arrangements between various state, federal, and local food inspection authorities, interstate and intrastate.

Before a permit is issued under a reciprocal or direct inspection arrangement, an original inspection may be made by the health officer, or his designee, to determine if the food products are produced, handled, and processed under conditions which are similar to this chapter. Subsequent inspection shall be made at intervals which the health officer may deem necessary. Such inspections outside Arlington shall be paid for by the applicant or the holder of the permit. (1994 Code, § 8-609)

9-610. Temporary food service establishment. A temporary food service establishment shall comply with all provisions of this chapter which are applicable to its operation; but the health officer may augment these requirements when needed to assure the service of safe food; may prohibit the sale of certain potentially hazardous food; and may relax specific requirements for the physical facilities, when in his opinion no imminent health hazard will result and where close supervision of the operation can be provided by the health department. (1994 Code, § 8-610)

9-611. Collection and analysis of food samples. (1) It shall be the duty of all health department environmentalists to obtain samples of all substances offered for food whenever ordered to do so by the health officer. These samples shall be delivered to the health department for analysis and inspection. Proprietors of food service establishments shall furnish the health department, upon request, food samples without charge for laboratory analysis and examination.

(2) Environmentalists shall make collections of food samples in the following manner:

(a) Samples of food shall be taken in the presence of the owner, manager, or their authorized designee, and numbered.

(b) Should the owner, manager, or their authorized designee request it, the sample shall be taken in duplicate, handled in the manner hereinbefore provided, and one sample delivered to that industry management.

(c) The quantity of bulk goods shall be in an amount sufficient for proper examination and analysis or as required by the health department laboratory.

(3) The methods of analysis of food samples shall be those prescribed by the director of laboratories or the health officer of the Memphis and Shelby County Health Department.

(4) Whenever upon analysis or examination it appears that the foods from which samples have been taken are adulterated or misbranded in violation of the provisions of this chapter, or if any other violation of this chapter has occurred, a report shall be made promptly to the health officer, who shall take such steps necessary to secure the enforcement of this chapter and all lawful rules promulgated hereunder. (1994 Code, § 8-611)

9-612. Adulterated or misbranded food. It shall be unlawful for any person to produce, offer, expose, manufacture for sale or have in their possession, charge, or control any article of food for sale which is adulterated or misbranded. (1994 Code, § 8-612)

9-613. Report of unwholesome food. It shall be the duty of every person knowing of any food offered for sale, for consumption by human beings,

or being in any market, public or private, in Arlington, which is not sound, healthy, or wholesome food, forthwith to report to the health department such facts and the particulars relating thereto. (1994 Code, § 8-613)

9-614. Transporting bakery food. It shall be unlawful to transport bread, cakes, doughnuts, pies, and other pastries or baked foods from plant to store or from one place to another unless it is wrapped in dust-proof containers. (1994 Code, § 8-614)

9-615. Right of entry into food establishments. The health officer and all agents or employees of the health department shall have the right to enter any lot, premises, building, factory, or place where food is manufactured, stored, sold, or offered for sale, and it shall be unlawful for any person to deny to these officers, agents, and employees access to any such place or to interfere with them in the performance of their duties under the provisions of this chapter. (1994 Code, § 8-615)

9-616. Interpretation of food code; policies and standards of health officer. The interpretation of the provisions of this chapter shall be made by the health officer, and he shall adopt written policies and standards, approved by the board of health, in carrying out the provisions of this chapter. (1994 Code, § 8-616)

9-617. Enforcement of food code; rules and regulations of health department. It shall be the duty of the health department to enforce this chapter and to adopt minimum standards for all classes of foods, including fat contents of meat products, defining specific adulterations and declaring methods of collecting and examining food; to promulgate regulations with reference to the purity, wholesomeness, and fitness for food of all kinds and compounds and substances coming within the provisions of this chapter; and to adopt such other written rules and regulations as may be recommended by the health officer and approved by the board of health. Nothing in this chapter shall be construed as permitting the alteration of a standard which is specifically stated in this chapter. (1994 Code, § 8-617)

9-618. Application of this chapter. The provisions of this chapter shall be the rules and regulations governing the sanitary conditions of food establishments. (1994 Code, § 8-618)

9-619. Cleanliness of employees. No person maintaining or operating any food establishment shall allow any employee handling or coming in contact with food to be or remain in an unsanitary, filthy, or dirty condition either as to person or clothing while so employed.

All employees shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty. They shall wash their hands thoroughly in an approved handwashing facility before starting work, and as often as may be necessary to remove soil and contamination. No employee shall resume work after visiting the toilet room without first washing his or her hands. Employees shall keep their fingernails clean and neatly trimmed and shall wear no jewelry which may contaminate the food.

Hairnets, caps, or other approved hair restraints shall be used by employees engaged in the preparation and service of food to keep hair from food and food-contact surfaces.

Employees shall not use tobacco in any form while engaged in food preparation or service, or while in equipment and utensil washing or food preparation areas. (1994 Code, § 8-619)

9-620. Health of employees. No employer shall knowingly require, permit, or allow any person who is infected with any contagious, communicable, or infectious disease to work or remain in or around any food establishment. The same shall apply to all persons exposed to a reportable disease unless the person so exposed has a permit from the health department to engage in such work.

No person, while affected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or an acute respiratory infection shall work in any area of a food service establishment in any capacity in which there is a likelihood of contaminating food or food-contact surfaces with pathogenic organisms, or transmitting disease to other individuals. No person known or suspected of being affected with any such disease or condition shall be employed in such an area or capacity. If the manager or person in charge of the establishment has reason to suspect that any employee has contracted any disease in a communicable form or has become a carrier of such disease he shall notify the health officer immediately and exclude the employee from the food establishment. (1994 Code, § 8-620)

9-621. General requirements as to food. All food in any food establishment shall be from sources approved and considered satisfactory by the health officer and shall be clean, wholesome, free from spoilage, free from adulteration and misbranding, properly labeled, and safe for human consumption. No hermetically sealed, non-acid or low-acid food which has been processed in a place other than an approved commercial food processing establishment shall be used. (1994 Code, § 8-621)

9-622. Maintenance of premises. All parts of a food establishment and its premises shall be kept clean, neat, and free of garbage, litter, and rubbish. Cleaning operations shall be conducted in a way that minimizes contamination of food and food-contact surfaces.

The surrounding of food establishments including parking areas, shall present a neat and orderly appearance. All sheds and outbuildings shall be kept clean, painted, and free from accumulations of garbage, manure, ashes, rubbish, tall grasses or weeds, filth in which flies may breed, or standing water in which mosquitoes may breed. (1994 Code, § 8-622)

9-623. Floors, walls, and ceilings. Floors shall be installed in kitchens and in all other rooms and areas in which food is stored or prepared and in which utensils are washed, and in walk-in refrigerators, dressing or locker rooms and toilet rooms, and shall be of smooth, non-absorbent materials, and so constructed as to be easily cleanable. All floors shall be kept clean and in good repair. Sawdust or wood shavings, or other similar and approved products, shall be used on the floors only as permitted by the health department. On new construction, floors in food preparation areas shall be hard tile, brick, terrazzo, or similar materials.

Floor drains shall be provided in all rooms where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other waste on the floor. All exterior areas where food is served shall be kept clean and properly drained, and surfaces in such areas shall be finished so as to facilitate maintenance and minimize dust.

The walls and ceilings of all rooms shall be kept clean and in good repair. Walls shall be installed in all areas in which food is stored, prepared, or utensils or hands washed. Walls shall be smooth, light-colored and shall have washable surfaces.

Approved ceilings shall be installed in all areas of food establishments where food is prepared. Such ceilings shall be constructed of smooth, non-absorbent, washable, approved materials. Light fixtures, decorative material and similar equipment and material attached to walls, floors, and ceilings shall be kept clean and in good repair. (1994 Code, § 8-623)

9-624. Doors and screens. Except as provided in sections 8-614, 8-658, 8-659, 8-661, and 8-664, it shall be unlawful to sell, keep, serve, or expose for sale in the town any article of food or drink for human beings except within a building, store, room, or other enclosure, the openings into which are effectively provided and equipped with doors, screens, or coverings so as to exclude flies, insects, and vermin of every description. All such places shall at all times be kept free from flies, insects, and vermin. All openings used as passages into or from the building, store, room, or enclosure shall be provided and equipped with doors, screens, shutters, or coverings. These doors must be equipped with self-closing devices. All doors, screens, shutters, and coverings shall be kept closed at all times except during the course of necessary passage through or ordinary use of such openings.

In cases where mechanical equipment such as air-conditioners or shuttered fans or similar devices are approved and used and effectively prevent

the entrance of flies, insects, and vermin, screens may be omitted. Fans or other air devices installed in open doorways to prevent entrance of pests must be approved by the health department when such doorways are routinely left open. (1994 Code, § 8-624)

9-625. Water supply, sewage disposal, and plumbing. The water supply shall be adequate, of a safe and sanitary quality, and from an approved source. Hot and cold running water, under pressure, shall be provided in all areas where food is prepared or equipment, utensils, or containers are washed.

Ice used for any purpose shall be made from water which comes from an approved source and shall be used only if it has been manufactured, stored, transported, and handled in a sanitary manner, as provided by the rules and regulations of the health department. Ice used for drinking purposes shall be stored in a clean, covered container free from contamination. Food products shall not be stored in ice that is to be used for drinking purposes.

All sewage shall be disposed of in a public sewerage system or another system approved by the health officer.

Plumbing shall be sized, installed, and maintained in accordance with applicable plumbing codes, so as to carry adequate quantities of water to required locations throughout the establishment. Plumbing shall prevent contamination of the water supply and properly convey sewage and liquid wastes from the establishment to the sewerage system. Plumbing shall not constitute a source of contamination of food, equipment, or utensils or create an unsanitary condition or nuisance. (1994 Code, § 8-625)

9-626. Lighting. All areas in which food is prepared, served, or stored, or utensils are washed; handwashing areas; dressing or locker rooms, toilet rooms; and garbage and rubbish storage areas shall be well-lighted. During all clean-up activities, adequate light shall be provided in the area being cleaned and upon or around equipment being cleaned. (1994 Code, § 8-626)

9-627. Ventilation. All rooms in which food is prepared, serviced, stored; and utensils are washed; dressing or locker rooms; toilet rooms; and garbage and rubbish storage areas shall be well-ventilated. Ventilation hoods and devices shall be designed to prevent grease or condensate from dripping into food or onto food preparation surfaces.

Filters, when used, shall be readily removable for cleaning or replacement. Ventilation system shall comply with applicable fire prevention requirements and shall when vented to the outside air discharge in such a manner as not to create a nuisance. (1994 Code, § 8-627)

9-628. Maintenance of fixtures. All counters, shelves, drawers, bins, tables, showcases, and other fixtures shall be kept clean and free from

accumulations of dirt and shall be free from cracks in which dirt may accumulate. (1994 Code, § 8-628)

9-629. Refrigerators, iceboxes, cold-storage rooms, and air conditioners. Refrigerators, iceboxes, cold-storage rooms, and air-conditioning equipment shall be kept clean and free from foul and unpleasant odors, fungus growths, molds, and slime. Refrigerators and cold storage rooms shall be properly ventilated in accordance with section 8-627. Drips from walk-in refrigerators and air-conditioning equipment shall be connected to the sanitary sewerage system or a system approved by the health officer. Permanent type refrigerates walk-in boxes shall have a floor drain and such floor drain shall be connected to the sanitary sewage system or a system approved by the health officer. (1994 Code, § 8-629)

9-630. Utensils and equipment, generally. (1) Utensils and equipment used in mixing, preparing, or manufacturing food shall be constructed of non-absorbent, non-poisonous material, free from rust, and must be cleaned after each time they are used, and after cleaning shall be protected from flies and dust.

(2) Knives, forks, spoons, plates, dishes, glasses, and other wares used in preparing, handling, or serving food shall be cleaned with hot water and soap after each usage, rinsed, and sanitized as provided in section 8-632.

The use of broken, cracked, or chipped glassware or china and broken or rusty utensils is forbidden and when found must be condemned.

(3) All kitchenware and food contact surfaces of equipment, exclusive of cooking surfaces of equipment, used in the preparation or serving of food or drink, and all food storage utensils, shall be thoroughly cleaned after each use. Cooking surfaces of equipment shall be cleaned at least once daily. All utensils and food-contact surfaces of equipment used in the preparation, service, display or storage of potentially hazardous food shall be thoroughly cleaned and sanitized prior to such use. All non food contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition.

(4) After cleaning, and until use, all food-contact surfaces of equipment and utensils shall be so stored and handled as to be protected from contamination.

(5) All single-service articles shall be stored, handled, and dispensed in a sanitary manner, and shall be used only once and then properly disposed.

(6) Food service establishments which do not have adequate and effective facilities for cleaning and sanitizing utensils shall use only single-service articles. (1994 Code, § 8-630)

9-631. Sanitary design, construction, and installation of equipment and utensils. All equipment and utensils shall be so designed and of such material and workmanship as to be smooth, easily cleanable, and

durable, and shall be in good repair. The food-contact surfaces of such equipment and utensils shall, in addition, be easily accessible for cleaning, non-toxic, corrosion resistant, and relatively non-absorbent. When approved by the health officer, exception may be made to the above material requirements for equipment such as cutting boards, blocks, and baker's tables.

All equipment shall be so installed and maintained as to facilitate the cleaning thereof and of all adjacent areas.

Cutting blocks and boards and baker's tables may be of hard maple or equivalent material which is non-toxic, smooth, and free of cracks, crevices, and open seams. (1994 Code, § 8-631)

9-632. Sanitizing dishes and utensils. When manual dishwashing is employed, equipment and utensils shall be thoroughly washed in a detergent solution which is kept reasonably clean and then shall be rinsed free of the solution. All eating and drinking utensils and, where required, the food-contact surfaces of all other equipment and utensils shall be sanitized by one of the following methods:

(1) Immersion for at least one-half (½) minute in clean hot water at a temperature of at least 180 degrees F., (82.222 degrees C.)

(2) Immersion for a period of at least 1 minute is a sanitizing solution containing:

(a) At least 50 ppm of available chlorine at a temperature not less than 75 degrees F., (23.889 degrees C.), or

(b) At least 12.5 ppm of available iodine in a solution having a pH not higher than 5.0 and a temperature not less than 75 degrees F., (23.889 degrees C.), or

(c) Any other chemical-sanitizing agent which has been demonstrated to the satisfaction of the health officer to be effective and non-toxic under use conditions, and for which a suitable field test is available. Such sanitizing agents, in use solutions, shall provide the equivalent sanitizing effect of a solution containing at least 50 ppm of available chlorine at a temperature not less than 75 degrees F., (23.889 degrees C.)

(3) Equipment too large to treat by methods in subsections (1) and (2) may be treated:

(a) With live steam from a hose, in the case of equipment in which steam can be confined; or

(b) By rinsing with boiling water; or

(c) By spraying or swabbing with a chemical sanitizing solution of at least twice the minimum strength required for the particular sanitizing solution when used for immersion sanitization. (1994 Code, § 8-632)

9-633. Paper vessels and straws. Paper vessels may be used in place of glassware in the serving of food, ices, beverages, or drinks, but paper vessels shall be used only once and then disposed of in an approved and sanitary manner. All paper vessels furnished to customers shall be kept in covered dust and fly-proof containers.

It shall be unlawful to serve, provide, or furnish straws, quills, or other similar devices through which beverages or other liquids may be drawn in connection with the sale or dispensing of such drinks, liquids, or beverages unless the straw, quill, or similar device was previously sanitized and contained in a sealed envelope or other outside covering to be broken or opened by the user only or by an approved dispensing device. (1994 Code, § 8-633)

9-634. Stoves, ranges, and hoods. Stoves, ranges, and hoods shall be kept clean and free from grease and odor. (1994 Code, § 8-634)

9-635. Milk or food in bottles or containers. Milk or food in bottles or containers shall not be submerged in water. (1994 Code, § 8-635)

9-636. Wrapping foods. The use of newspaper or any other unclean paper for the purpose of wrapping food is forbidden. (1994 Code, § 8-636)

9-637. Common drinking cups. The use of common drinking cups or other similar containers in the food establishment is forbidden. (1994 Code, § 8-637)

9-638. Shelf or counter coverings. The use of newspapers or any other unclean paper for coverings shelves or counters is forbidden. (1994 Code, § 8-638)

9-639. Storage and disposal of garbage and rubbish. All garbage and rubbish containing food wastes shall, prior to disposal, be kept in leak-proof, non-absorbent, and approved containers which shall be covered with tight-fitting lids when filled or stored or not in continuous use. All other rubbish shall be stored in containers, rooms, or areas in an approved manner as required by this chapter. The rooms, enclosures, areas, and containers used shall be adequate for the storage of all food waste and rubbish accumulating on the premises. Adequate cleaning facilities shall be provided and each container, room, or area shall be thoroughly cleaned after the emptying or removal of garbage and rubbish. Food waste grinders, if used, shall be installed in compliance with state and local standards and shall be disposed of with sufficient frequency and in such a manner as to prevent a nuisance. Either throwing, placing, or allowing garbage, trash, sweeping, or rubbish to accumulate upon the ground is forbidden. Can liners shall be used for wet garbage storage. (1994 Code, § 8-639)

9-640. Birds and animals prohibited; exception. No live birds or animals shall be allowed in any area used for the conduct of food service establishment operations except guide dogs accompanying blind patrons. (1994 Code, § 8-640)

9-641. Separation of unrelated activities. All food service establishments shall be physically separated by complete, tight-fitting, partitions from any other activity not related to food establishments or any other food service activity that may be deemed hazardous to that particular operation. (1994 Code, § 8-641)

9-642. Sleeping quarters; accumulation of unnecessary articles. No person shall be permitted to sleep on a regular and continuing basis in any food service establishment in the area where food is prepared, cooked, or served. Bedrooms or living rooms shall be separated by a complete tight-fitting partition, with no direct entry into a food service establishment. Wearing apparel, books, shoes, or any other personal effect, or any other unnecessary articles such as used automobile parts, grease, or gasoline shall not be kept or allowed to accumulate in any kitchen or room where foodstuffs are kept and handled. (1994 Code, § 8-642)

9-643. Toilet facilities. With the exception of packaged goods stores, as hereinafter set forth, each food service establishment shall be provided with adequate, conveniently located toilet facilities for its employees and patrons. Toilet facilities shall be conveniently located and shall be accessible to the employees and patrons at all times. Vestibules shall be provided as designated by the health department and shall be kept in a clean condition and in good repair. No food products or articles used in the preparation or serving of food shall be stored in a vestibule or toilet room. Toilets and vestibules shall be lighted and ventilated in an approved manner. Toilet fixtures shall be of sanitary design and readily cleanable. Toilet facilities, including rooms and fixtures, shall be kept in clean condition and in good repair. The doors of all toilet rooms shall be self-closing. Toilet tissue shall be provided. Easily cleanable receptacles shall be provided for waste materials, and such receptacles in toilet rooms for women shall be covered. In new construction, all toilets shall have floor drains connected to an approved sewerage system. Toilet doors or stall doors shall not be locked or have coin-operated devices except as approved by the health department.

Packaged good stores shall provide a minimum of one (1) commode and one (1) handwash lavatory which shall meet the foregoing requirements. (1994 Code, § 8-643)

9-644. Handwashing facilities. Each food service establishment shall be provided with adequate, conveniently located handwashing facilities for its

employees and patrons. Lavatories shall be equipped with hot and cold or tempered running water, hand-cleansing and single-use soap or detergent, and approved sanitary single-use towels or other approved hand-drying devices. These facilities shall be kept clean and in good repair. Lavatories shall be adequate in size and number and shall be so located as to permit convenient and expeditious use by all employees and patrons. One or more lavatories shall be required in each food preparation area. (1994 Code, § 8-644)

9-645. Basements. Basements shall be kept clean, free from accumulations of rubbish, free from moisture and unpleasant odors, and shall be well lighted and ventilated. If mechanical lighting and ventilation are required, they shall be installed. (1994 Code, § 8-645)

9-646. Dressing rooms and lockers. Adequate facilities shall be provided for the orderly storage of employee's clothing and personal belongings. Where employees routinely change clothes within the establishment, one or more dressing rooms or designated areas shall be provided for this purpose. The designated areas shall be located outside the food preparation, storage, and serving areas, and the utensil washing and storage areas. When approved by the health officer, the area may be located in a storage room where only completely packaged food is stored. Designated areas shall be equipped with adequate lockers, and lockers or other suitable facilities shall be provided in dressing rooms. Dressing rooms and lockers shall be kept clean. (1994 Code, § 8-646)

9-647. Storage of soiled linens, coats, and aprons. Soiled linens, coats, and aprons shall be kept in containers until removed for laundering. (1994 Code, § 8-647)

9-648. Display, storage, and service of food. All foodstuffs which are displayed or stored shall be fully protected from flies, dust, dirt, and insects by glass cases or other modern methods approved by the health department.

Where unwrapped food is placed on display in all types of food service operations, including smorgasbords, buffets, and cafeterias, it shall be protected against contamination from customers and other sources by effective, easily cleanable, counter-protector devices, cabinets, display cases, containers, or other similar types of protective equipment. Self-service openings in counter guards shall be so designed and arranged as to protect food from manual contact by customers.

Tongs, forks, spoons, picks, spatulas, scoops, and other suitable utensils shall be provided and shall be used by employees to reduce manual contact to a minimum. For self-service by customers, similar implements shall be provided.

Dispensing scoops, spoons, and dippers used in serving frozen desserts shall be stored between uses in an approved type running-water dipper well.

Sugar shall be provided only in closed dispensers or in individual packages.

Individual portions of food, once served to a customer, shall not be served again, but wrapped food, other than potentially hazardous food, which is till wholesome and has not been unwrapped, may be reserved. (1994 Code, § 8-648)

9-649. Storage of potentially hazardous food. Potentially hazardous food shall be kept at 45 degrees F. (7.222 degrees C.), or less, or 140 degrees F. (60.000 degrees C.), or more. All potentially hazardous foods stored at 140 degrees F. (60.000 degrees C.) or more shall be in equipment which is thermostatically controlled, and potentially hazardous foods shall not be transferred from hot storage to refrigeration more than one time. Eggs shall be kept at a temperature which is not conducive to spoilage. (1994 Code, § 8-649)

9-650. Coffee creamer and refrigerated cream dispensers. Individual coffee creamers with approved tops or lids and/or automatic or manually operated refrigerated cream dispensers dispensing portioned servings and operated only by food service personnel shall be utilized in food service establishments. (1994 Code, § 8-650)

9-651. Presetting of tables. The presetting of tables with china, silver, glassware, etc., is forbidden except when a reasonable time between the setting of the table or tables and the serving of food and drink is maintained. Tables shall not be set in an open-air dining room until the customer has been seated. (1994 Code, § 8-651)

9-652. Transportation of food. All perishable food products requiring refrigeration, including meat products, eggs, bakery items, etc., shall be transported in refrigerated vehicles from the point of origin and/or processing plant to the food service establishing from which the food products are sold or offered for sale.

The requirements for storage, display, and general protection against contamination, as contained in this code, shall apply in the transporting of food from a food service establishment to another location for service or catering operations, and all potentially hazardous food shall be kept at 45 degrees F. (7.222 degrees C.), or below or 140 degrees F (60.000 degrees C.), or above, during transportation. During the transportation of food from a good service establishment, all food shall be in covered dust-proof containers or completely wrapped or packaged so as to be protected from contamination. (1994 Code, § 8-652)

9-653. Use and storage of poisonous and toxic materials. Only such poisonous and toxic materials as are required to maintain sanitary conditions may be used or stored in a food service establishment. All containers of

poisonous and toxic materials shall be prominently and distinctively marked or labeled for easy identification as to contents. When not in use, poisonous and toxic compounds shall be stored in cabinets which are used for no other purpose, or in a place which is outside the food storage, food preparation, food service, and cleaned-equipment and utensil storage areas. Poisonous materials shall not be used in any way as to contaminate food, equipment, or utensils, nor to constitute other hazards to employees or patrons. (1994 Code, § 8-653)

9-654. Lounges and bars. In lounges and bars, a three (3) compartment sink or greater, shall be provided for washing, rinsing, and sanitizing glasses and other bar utensils in the bar area. A lavatory shall be installed in the bar area for bar personnel. A floor drain shall be installed and connected to the approved sewerage system. (1994 Code, § 8-654)

9-655. Grocery stores. A sink with a minimum of three (3) compartments and a lavatory shall be installed in the meat processing room of all grocery stores. There shall be no processing or mixing of food in a meat processing or cutting area which does not require cooking before consuming, such as salads, sandwiches, bakery items, slaws, etc. An additional sink with a minimum of two (2) compartments shall be installed in the vegetable preparation area of all grocery stores. Adequate and conveniently located floor drains shall be installed in such stores and a lavatory shall be installed in the bakery department if other than wrapped bakery items are displayed and sold. A service-mop sink shall be provided for clean-up purposes. If a delicatessen is located within a grocery store, its operation shall conform to the requirements of a restaurant.

If a grocery stores processes, packages, dispenses, or sells food products other than regular grocery items, such as ice, drinks, sandwiches, dipped ice cream, or similar items, the proper facilities shall be provided for cleaning equipment and production of the food as required by this chapter. (1994 Code, § 8-655)

9-656. Candy counters. A lavatory shall be installed in the candy counter area of a food establishment if other than pre-packaged candy is displayed and sold. (1994 Code, § 8-656)

9-657. Food processing plant. A food processing plant shall meet all of the applicable requirements of this chapter and shall also meet the following special requirements:

(1) A food processing plant and all of the activities thereof shall be separate from a restaurant or other retail establishment.

(2) All necessary equipment and facilities for the manufacture, cooking, mixing, preparation, and packaging of processed foods shall be provided and utilized so as to protect the food from contamination and to produce a food

product which meets the physical and bacteriological standards set by the health officer.

(3) Packages shall be of a design and material so as to protect the contents from contamination.

(4) Processed food shall be labeled so as to inform the consumer of the contents, manufacturer's name and address, and in the case of highly perishable foods, the date of manufacture. (1994 Code, § 8-657)

9-658. Caterers generally. A food caterer shall meet all of the applicable requirements of this chapter and shall also meet the following special requirements:

(1) Food distributed or served by a caterer shall be prepared in a food processing plant, but a caterer's permit may be issued to a restaurant which has adequate facilities and in which the catering activities will not interfere with the normal operation of the restaurant.

(2) Caterers' permits shall be restricted to a maximum number of servings and/or volume of food.

(3) Vehicles used for transportation of food shall be checked by the health officer to see if they are suitable before they are used. Vehicles must be labeled on both sides with the name and address of the owner.

(4) Food shall be transported in containers which have been approved by the health officer and which will keep the food 140 degrees F. (60.000 C.), or above, or 45 degrees F. (7.222 degrees C.), or below.

(5) If handwashing facilities are not available at the place where the food is to be served, the caterer shall provide these facilities for his employees as directed by the health officer.

(6) The caterer shall dispense food to consumers only in a place where the food can be protected from contamination. (1994 Code, § 8-658)

9-659. Industrial caterers. Industrial caterers shall meet all the applicable requirements of this chapter and shall also meet the following special requirements:

(1) Bulk food shall be dispensed only from a building where toilets and handwashing facilities and any additional facilities deemed necessary by the health officer are available.

(2) Food shall be dispensed only from premises which have been checked and found suitable by the health officer in accordance with standards set in this chapter.

(3) Perishable food shall be transported, stored, and served only in containers and equipment which is designed and thermostatically controlled to keep the food 140 degrees F. (60.000 degrees C.), or above, or 45 degrees F. (7.222 C.), or below.

(4) An industrial caterer shall dispense only food which has been processed at a food processing plant.

(5) Industrial catering trucks shall be trucks which were designed for food catering and also meet the National Sanitation Foundation (NSF) standards.

(6) Industrial catering trucks shall be based at or operated from a premise in an area other than residential where storage facilities are available for food producers and where cleaning facilities are available.

(7) Industrial catering stands shall be operated and supplied by food processors or industrial caterers.

(8) Toilet facilities provided by the shopping center or the pedestrian mall and made accessible to the operator and public shall be deemed in compliance with section 8-643.

(9) No patrons of the industrial catering stand shall be permitted to come within the confines of the stand.

(10) Handwashing facilities shall be provided for the operator of the stand within the confines of the stand. (1994 Code, § 8-659)

9-660. Salvage foods establishment. A salvage foods establishment shall meet all of the applicable requirements of this chapter and shall meet the following special requirements:

(1) No person shall engage in the sale, warehousing, or storage of any salvage foods and/or salvage food products without a permit from the health department.

(2) A lavatory with hot and cold or tempered running water, individually portioned soap, and individual single-use towels shall be installed in the salvage operation area.

(3) Toilet facilities shall be installed for the employees and, if a retail establishment, for the patrons.

(4) A salvage food establishment, be it retail or wholesale, shall install a sink with a minimum of three (3) compartments, with hot and cold or tempered running water in the salvage operation area. The sink shall be used for the proper washing, rinsing, and sanitization of applicable salvage food products. Articles which cannot be submerged in water shall be cleaned and sanitized as directed by the health officer.

(5) All vehicles used in the transportation of salvage goods shall be kept clean and free from rodents, insects, accumulations of dirt, spillage, etc.

(6) All salvage goods sold or offered for sale shall be properly labeled. Government surplus commodities in the original containers which are labeled on the outside of the case are acceptable.

(7) All salvage foods such as flour, sugar, meal, or any other food or food product which has burst, torn, spilled, or been damaged in any way and swellers and leakers shall not be re-sacked, re-filled, or sold or offered for sale for human consumption. These salvaged food products shall be stamped or labeled "NOT FOR HUMAN CONSUMPTION."

(8) Salvage operations shall be performed in buildings and structures and with facilities, equipment, and procedures which meet the requirements of this chapter and/or as directed by the health officer. The food salvager shall be responsible for compliance with this chapter.

(9) Items which cannot be salvaged must be denatured and disposed of in a manner approved by the health officer.

(10) No merchandise will be moved intrastate without prior approval of the health officer. No interstate movement of goods will be made without the prior approval of the health officer and the Food and Drug Administration's Food and Drug Control Agency in the state receiving the merchandise.

(11) The permit holder will immediately notify the health officer of any salvage operation which is anticipated within Arlington. Notification will be made prior to the beginning of any salvage operation. (1994 Code, § 8-660)

9-661. Hucksters. A huckster shall meet all of the applicable requirements of this chapter and shall also meet the following special requirements:

(1) No person shall engage in the business as a huckster without first having obtained a permit from the health department and having paid the appropriate fee as required in §§ 9-603 and 9-605.

(2) A written application must be made at the health department, in person, by the person requesting the permit, as required in § 9-604.

(3) Huckster permits shall be issued for fruits, vegetables, melons, berries, chestnuts, and packages nuts only, and no other types of food shall be sold from the huckster's vehicles.

(4) A huckster's permit may be suspended or revoked for violating the applicable provisions of this chapter as required in § 9-607.

(5) A huckster's vehicle shall be identified on both sides by the name ad address of the person holding the permit and by the health department permit number. Letters shall be at least two (2) inches high and shall be legible.

(6) A huckster's vehicle shall be kept in motion except when making sales, and its movement shall be timed and executed so as to cause a minimum interference with traffic.

(7) When not in use, a huckster's vehicle which contains fruits, vegetables, melons, chestnuts, packaged nuts, and berries shall be stored in such a place and condition as to prevent contamination of food from dust, flies, insects, rodents, animals, and other pests.

(8) Huckster vehicles must carry waste containers and this waste must be properly disposed of as required by the health officer.

(9) Fruits, including cantaloupes and watermelons, shall be sold whole and shall not be cut or sliced while in the possession of the huckster.

(10) The business of huckstering is prohibited between sundown and sunrise.

(11) Not more than two (2) person shall operate or sell from a huckster's vehicle.

(12) Every huckster shall, at all times, while engaged in his business, carry with him the permit required by this chapter. (1994 Code, § 8-661)

9-662. Pedestrian vendors. Pedestrian vendors shall meet all the applicable requirements of this chapter and shall also meet the following special requirements. The health officer shall adopt written rules and regulations for pedestrian vendors for the purpose of interpretation of this chapter, as required by § 9-616:

(1) The owner, agent, manager, park superintendent, director of a mall, shopping center, or other appropriate responsible person shall pay the fee required in § 9-603.

(2) All food to be served and sold by a pedestrian vendor shall be processed under the proper and sanitary facilities as required by the health officer.

(3) All pedestrian vendors shall have a commercially zoned and based establishment where the food is prepared and/or stored when the vehicle is not in use and cleaning facilities are available.

(4) Pedestrian vendors shall have facilities where all perishable foods can be kept 45 degrees F. (7.222 degrees C.), or below, and 140 degrees F. (60.000 degrees C.), or above, in a controlled container.

(5) Mobile units shall be especially designed for food distribution and shall be made from material that can be kept clean and well-maintained.

(6) Operators shall periodically wash their hands and keep their hands clean.

(7) Operators shall wear clean outer garments at all times.

(8) Toilet facilities provided by the mall or shopping center, and made accessible to the public shall be deemed in compliance with§ 9-643. (1994 Code, § 8-662)

9-663. Farmer's market. A farmer's market shall meet all of the applicable requirements of this chapter and shall also meet the following special requirements:

(1) The agent, manager, or director of the sponsoring organization of a farmer's market shall secure a farmer's market permit from the Memphis and Shelby County Health Department and shall pay the appropriate fee as required by § 9-603.

This permit shall cover all sellers operating within the market, and the agent, manager, or director thereof shall be held directly responsible for the operation of each seller.

(2) A written application must be made at the health department, in person by the person requesting the permit.

(3) A farmer's market permit shall be issued only for fruits, vegetables, melons, berries, or nuts, and no other types of food may be sold.

(4) A farmer's market permit may be suspended or revoked for violating the applicable provisions of this chapter as required by§ 9-607.

(5) Fruits, including cantaloupe and watermelon, shall be sold whole and shall not be cut or sliced while on the premises of the market or within the possession of the seller.

(6) Toilet facilities shall be provided by the sponsoring organization, made available to the public and shall be deemed in compliance with§ 9-643.

(7) A separate permit must be obtained for each farmer's market site; this permit shall not be transferable from site to site.

(8) The farmer's market must be completely contained on a paved surface. (1994 Code, § 8-663)

9-664. Deleted. (deleted by Ord. #2017-011, Nov. 2017)

CHAPTER 7

MOBILE FROZEN DESSERT VENDORS AND FOOD TRUCKS

SECTION

9-701. Definitions.
9-702. Requirements.
9-703. Sales on streets and public property.
9-704. Mobile food vendors on private property.
9-705. Permit.
9-706. Permit renewal.
9-707. Permit and decal.
9-708. General requirements of mobile food vendor vehicles.
9-709. Inspections.
9-710. Exemptions.
9-711. Penalties.

Purpose. The Town finds that allowing mobile food vendors to operate, subject to practical regulations and limitations, is beneficial to persons living and working within the town. This article recognizes the unique physical and operational characteristics of mobile food vending, establishes standards for mobile food vending operations and promotes practices that serve the health, safety and welfare of the public. (as added by Ord. #2017-011, Nov. 2017)

9-701. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Mobile food vendor" is defined as any person selling food and/or drink from a mobile vehicle, including a food truck, food trailer and ice cream truck.

(2) "Mobile food service vehicle" is defined as a vehicle that returns daily to its base of operations and is used either in the preparation or sale of food or drink products, or both.

(3) "Food truck" is defined as an enclosed motor vehicle equipped with facilities for preparing, cooking and selling various types of food and/or drink products other than exclusively ice cream and related frozen products.

(4) "Food trailer" is defined as a detached trailer that is equipped with facilities for preparation, cooking and selling various types of food and/or drink products.

(5) "Ice cream truck" is defined as a motor vehicle containing a commercial freezer from which a vendor sells only frozen, pre-packaged food products such as ice cream, frozen yogurt, frozen custard, flavored frozen water and similar frozen items.

(6) "Edible food products" means those products that are ready for immediate consumption, including prepackaged food and food cooked, prepared or assembled on-site. The term "edible food products" does not include fresh produce unless the produce has been packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared for consumption.

(7) "Location" means any single property parcel or any combination of contiguous parcels that are owned or controlled by a single entity or affiliated entities.

(8) "Mobile food vendor permit" means a permit issued by the town for the operation of a mobile food service vehicle valid for not more than two (2) weeks per permit. Permits for food trucks are valid for twenty-four (24) hours during special events only.

(9) "Operate" means to sell food, beverages, and other permitted items from a mobile food service vehicle and includes all tenses of the word.

(10) "Operator" means any person operating or permitted to operate a mobile food service vehicle.

(11) "Permit administrator" means the town's Recorder who oversees the issuance, suspension and revocation of mobile food vendor permits.

(12) "Vehicle" means every device in, upon or by which any person or property may be transported or drawn upon a street, including devices moved by human power. (as added by Ord. #2017-011, Nov. 2017)

9-702. Requirements. (1) Licenses and permits. It shall be unlawful for any person to engage in business as a mobile food vendor in the Town of Arlington without first obtaining a business license and a mobile food vendor's permit. Any permits, licenses, and certifications required by the Shelby County Department of Health and/or State of Tennessee for operation of the business are also required. Town of Arlington transient vendor licenses will not be required for those business owners residing in the State of Tennessee and/or businesses based in Tennessee. State transient vendor licenses will be required for owners of businesses residing outside of Tennessee and/or businesses based outside of Tennessee as required by the State of Tennessee. Upon being granted a mobile food vendor permit, a mobile food vendor must comply with the rules and regulations herein.

(2) Insurance. At the time of the application for a mobile food vendor license, the mobile food vendor must provide proof of valid automobile liability insurance in an amount required by law for operation of the applicable mobile food vendor vehicle(s). Failure to maintain this insurance when acting as a mobile food vendor will result in immediate revocation of the mobile food vendor license.

(3) Litter receptacles. Each licensed mobile food vendor must maintain for customer use a litter receptacle of sufficient size to accept the litter being generated by the sales from the vendor's mobile food vehicle at the point of sales. The receptacle must be maintained in such a manner as to preclude an overflow

of refuse. Each mobile food vendor shall pick up litter which is associated with the vendor's sale in the vicinity of the vendor's mobile food vehicle prior to departing a sales location. A pattern of leaving excessive litter caused by product packaging shall be basis for suspension or revocation of the mobile food vendor license.

(4) What can be sold. Mobile food vendors shall be limited to edibles and hot and cold beverages containing no alcohol. The sale of non-food or drink items from mobile food vendor vehicles shall be limited to merchandise displaying the mobile food company logo and/or branding.

(5) No seating and tables. There shall be no benches, tables, chairs or other furniture which may be used for eating or sitting provided by or associated with a mobile food vendor vehicle.

(6) Fire extinguishers and fire suppression systems. All food trucks and food trailers must be equipped with a fire extinguisher that is certified annually by a licensed company. Additionally, food trucks and food trailers that produce grease laden vapors (i.e. units with deep fat fryers or flat-top griddles) must have a fire suppression system certified bi-annually by a licensed company.

(7) Placement. Mobile food vendor vehicles shall not obstruct or impede pedestrian or vehicular traffic, access to driveways, and sight distance for drivers.

(8) Pedestrian only. Mobile food vendor vehicles shall serve pedestrians only; drive-through or drive-in services are hereby prohibited.

(9) Health regulations. All mobile food vendors and their mobile food vendor vehicles must be in compliance with all applicable health regulations for Shelby County and the State of Tennessee relating to food safety and preparation.

(10) Noises. Other than ice cream trucks being able to play a song associated with its business at a reasonable level of sound, no mobile food vendors shall sound any device which produces an offensive or loud noise to attract customers, and mobile food vendors shall not use a public-address system on the vehicle to broadcast and advertise products.

(11) No parking in fire lanes. No mobile food vendors shall park in fire lanes.

(12) Signs. Signs which are permanently affixed to the mobile food vendor vehicle shall extend no more than six inches (6") from the vehicle. Except as stated herein, all signs shall be attached or painted on the mobile food vendor vehicle. Electronic signs are prohibited as are signs that flash, reflect motion pictures, emit smoke or vapor, or produce any rotation, motion or movement. Each food truck or food trailer is permitted one sandwich board type sign located within ten feet (10') of the applicable food truck or food trailer for advertisement purposes while the food truck or food trailer is open for business. Such sandwich board sign shall be no more than forty-eight inches (48") high and contain no more than seven (7) square feet. (as added by Ord. #2017-011, Nov. 2017)

9-703. Sales on streets and public property. (1) Ice cream trucks. The hours of operation for ice cream trucks are between 9:00 A.M. and sunset as stated for that day for the Arlington area by the National Weather Service. Ice cream trucks may vend on public streets so long as they remain mobile and only make stops of ten (10) minutes or less at one (1) location.

(2) Food trucks and food trailers. Food trucks and food trailers are prohibited from selling food on any public street, sidewalk, alley, trail or right-of-way or any town owned or controlled property including, but not limited to, parks unless approved by the town as part of a town permitted special event. All mobile food vendors must comply with all rules, regulations and requirements related to the town permitted special event, including but not limited to, provisions as to where the mobile food vendors will be located, how long the mobile food vendors can be present at the location, and how many and which food trucks can participate in the town permitted special event. (as added by Ord. #2017-011, Nov. 2017)

9-704. Mobile food vendors on private property. Mobile food vendors are prohibited from conducting business on private property unless it is a catered event where all monies expensed are by the property owner and all attending parties are known to the property owner in connection with said event or town permitted special event. (as added by Ord. #2017-011, Nov. 2017)

9-705. Permit. Applicants for a permit under this section shall file with the Town Recorder a sworn application in writing on a form to be furnished by the Town Recorder. Submission of false or misleading information will result in revocation of the permit and a ban on receiving future permits. The application shall provide the following:

(1) The name and contact information of the applicant.

(2) The applicant's permanent street address, mailing address and email address.

(3) The applicant's telephone numbers including a cell phone number if available.

(4) A brief description of the nature of the business and of the goods to be sold.

(5) A copy of the vehicle registration for any mobile food vendor vehicle and proof of automobile insurance for the mobile food vendor vehicle.

(6) A copy of the business license, proof of State of Tennessee sales tax registration, and any health department license or certification required by Shelby County Department of Health or the State of Tennessee.

(7) State of Tennessee and Town of Arlington transient vendor licenses will be required for businesses based outside of the State of Tennessee and/or for owners of businesses residing outside the State of Tennessee.

(8) Color photograph(s) of the mobile food vendor vehicle's interior and exterior.

(9) Permission to obtain a background check of owner(s) of mobile food vendor vehicles. The town reserves the right to reject an applicant if he or she (or in the case of an LLC or corporation, its owner(s)),

(a) Is a registered sex offender;

(b) Has been convicted of a felony in the past ten (10) years;

(c) Has a chronic history of an unreasonable number and kind of moving vehicle violations as determined by the Recorder; or

(d) Presents an unreasonable public health and safety risk based on past criminal history as determined by the Recorder.

The applicant owner must also acknowledge and affirm his, her or its duty as hereby required by this code to perform background checks on each of his employees or agents operating the mobile food vendor vehicle permitted herein. The applicant must acknowledge and affirm that he, she or it will not allow an employee or agent to work in the town as a mobile food vendor if such employee or agent is a registered sex offender or if he or she has been convicted of a felony within the past ten (10) years.

(10) Payment of an application fee of one hundred dollars ($100.00). No refunds will be issued.

(11) Such other relevant information as may be reasonably requested by the town after review of submission of the material in order to assure full review of the information needed to assess the impact of the proposed operation on the health, safety and well-being of the public. (as added by Ord. #2017-011, Nov. 2017)

9-706. Permit renewal. A permit issued under this section shall be valid for the length of the event, as determined by the Town Administration office not to exceed two (2) weeks. A permit shall be valid for only one (1) mobile food vendor vehicle. Each operator and/or applicant shall file additional application and pay an additional permit fee for each additional mobile food vendor vehicle. No refunds will be issued for renewed permits. (as added by Ord. #2017-011, Nov. 2017)

9-707. Permit and decal. Each applicant upon being issued a permit under this section shall also be issued a decal which the mobile food vendor must display on the right front windshield's lower corner on each mobile food vendor vehicle or at such other location on the vehicle as the town in writing shall approve. (as added by Ord. #2017-011, Nov. 2017)

9-708. General requirements of mobile food vendor vehicles. All exterior bodywork and mechanical equipment of a mobile food vendor vehicle shall be maintained in good condition, free of excessive wear, tear or damage. All exterior paint work shall be maintained in good condition, free of substantial scratches, chips, rust, dents and abrasions. All windshield and window glass of mobile food vendor vehicles shall be maintained free of cracks, scratches, pitting,

abrasions and other conditions that may cause a hazard or reduce clarity of vision. (as added by Ord. #2017-011, Nov. 2017)

9-709. Inspections.

(1) Department of Health primary. Nothing in this section shall be construed as limiting or replacing the role of the Tennessee Department of Health and Shelby County Health Department which have the primary task of inspecting mobile food vendor vehicles.

(2) Entry. The Town Recorder and other officials shall have the right at any time after displaying proper identification to enter into or upon any mobile food vendor vehicle for the purpose of ascertaining whether or not any provisions of this section are being violated and for general inspection purposes.

(3) Shut down. Any mobile food vendor vehicle which is found after any town inspection to be unsafe or not compliant with this section may have their permit revoked and not be issued another until the deficiency is corrected. (as added by Ord. #2017-011, Nov. 2017)

9-710. Exemptions. Mobile food vendors that are part of and participating in a town permitted event may not be required to comply with all requirements of this chapter as far as participation in such event is concerned. (as added by Ord. #2017-011, Nov. 2017)

9-711. Penalties. Violations of this chapter are subject to the general penalty clause for the Town of Arlington. The town may also suspend or revoke permit and decal issued hereunder for violation of this chapter. (as added by Ord. #2017-011, Nov. 2017)

TITLE 10

ANIMAL CONTROL

CHAPTER
1. IN GENERAL.
2. DOGS.

CHAPTER 1

IN GENERAL[1]

SECTION
10-101. Running at large prohibited.
10-102. Pen or enclosure to be kept clean.
10-103. Keeping in such manner as to become a nuisance prohibited.
10-104. Seizure and disposition of animals.
10-105. Inspections of premises.
10-106. Requirements of keeping horses, mules, cows, goats, hogs, etc.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, 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. (1994 Code, § 3-101)

10-102. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1994 Code, § 3-102)

10-103. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance either because of noise, odor, contagious disease, or other reason. (1994 Code, § 3-104)

10-104. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is

---

[1]Municipal code reference
Riding or driving animals, etc.: § 15-108

known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

The pound keeper shall be entitled to 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. (1994 Code, § 3-106)

10-105. **Inspections of premises**. For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1994 Code, § 3-107)

10-106. **Requirements for keeping horses, mules, cows, goats, hogs, etc**. (1) It shall be unlawful for any person to keep or maintain one or more horses, mules, cows, goats, hogs and the like in any residential section of the town unless:

(a) On a tract of land greater than four (4) acres in size; and

(b) The boundary of the pen, corral, enclosure, or barn in which the animal is situated is further than one hundred (100) feet to any residence, unless the owner and/or occupant of record of adjoining residence consents in writing and the same is approved by the board of mayor and aldermen; and

(c) No animal shall be kept closer than twenty-five (25) feet from the boundary line of any adjoining parcel, unless the owner and/or occupant of adjacent property consents in writing and the same is approved by the board of mayor and aldermen.

(2) In no event shall any person keep or maintain any more than one (1) horse, mule, cow, goat, hog and the like, per every two (2) acres of land owned or leased in any residential section of the town.

(3) Places where any such animals are kept shall be kept clean and dry. All manure shall be picked up daily and kept in a bin or receptacle that will exclude flies and odors. The bin shall be located at a point most remote from the dwelling or other structure owned or occupied by other than the owner of the above premises and shall likewise be placed at a point most remote on the premises from any street. It shall be unlawful for any person to hold such manure on any premises in bins after the same shall have become a nuisance

or unsanitary; provided, that any person may use such manure on their premises for the purpose of enriching their own ground or for any other use to which manure can properly be put when the same is not offensive or unsanitary. (as added by Ord. #2006-02, March 2006)

CHAPTER 2

DOGS

SECTION

10-201. Rabies vaccination and registration required.
10-202. Dogs to wear tags.
10-203. Running at large prohibited.
10-204. Number of dogs on premises restricted.
10-205. Vicious dogs to be securely restrained.
10-206. Noisy dogs prohibited.
10-207. Confinement of dogs suspected of being rabid.
10-208. Seizure and disposition of dogs.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1994 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1994 Code, § 3-202)

10-203. Running at large prohibited.[1] It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1994 Code, § 3-203)

10-204. Number of dogs on premises restricted. In a district designated as residential on the official zoning map of the town, keeping or maintaining more than four (4) dogs over six (6) months old on the premises is prohibited. (1994 Code, § 3-204)

10-205. Vicious dogs to be securely restrained. 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. (1994 Code, § 3-205)

---

[1]State law reference
Tennessee Code Annotated, §§ 68-8-108 and 68-8-109.

10-206. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1994 Code, § 3-206)

10-207. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of police may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1994 Code, § 3-207)

10-208. Seizure and disposition of dogs. Any dog found running at large may be seized by the health officer or any police officer and placed in a pound provided or designated by the board of mayor and aldermen. If said 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 humanely destroyed or sold. If said dog is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within three (3) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar. 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 the health officer or any policeman [1]. (1994 Code, § 3-208)

---

[1]State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER
1. MISDEMEANORS OF THE STATE ADOPTED.
2. ALCOHOL.
3. FORTUNE TELLING, ETC.
4. OFFENSES AGAINST THE PEACE AND QUIET.
5. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
6. FIREARMS, WEAPONS AND MISSILES.
7. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
8. MISCELLANEOUS.
9. PANHANDLING ORDINANCE.

CHAPTER 1

MISDEMEANORS OF THE STATE ADOPTED

SECTION
11-101. Misdemeanors of the state adopted.

11-101. Misdemeanors of the state adopted. All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the common law to be misdemeanors are hereby designated and declared to be offenses against the Town of Arlington also. Any violation of any such law within the corporate limits is also a violation of this section. (1994 Code, § 10-101)

---

[1]Municipal code references
Animal control: title 10.
Fireworks and explosives: title 1.
Traffic offenses: title 15.
Shelby County codes applicable within town: § 12-101.
Streets and sidewalks (non-traffic): title 16.

CHAPTER 2

ALCOHOL[1]

SECTION

11-201. Drinking beer, etc., on streets, etc.
11-202. Minors in beer places.

11-201. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open container of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has an appropriate permit and/or license for on premises consumption. (1994 Code, § 10-226)

11-202. Minors in beer places. No person under eighteen (18) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1994 Code, § 10-220)

---

[1]Municipal code reference
Sale of alcoholic beverages, including beer: title 8.

State law reference
See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 3

FORTUNE TELLING, ETC.

SECTION

11-301. Fortune telling, etc.

11-301. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1994 Code, § 10-231)

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-401. Disturbing the peace.
11-402. Anti-noise regulations.

11-401. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1994 Code, § 10-202)

11-402. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

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

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

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

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

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

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

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

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

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

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

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

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

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

(a) Municipal vehicles. Any vehicle of the town while engaged upon necessary public business.

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1994 Code, § 10-230)

CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-501. Impersonating a government officer or employee.
11-502. Resisting or interfering with town personnel.

11-501. Impersonating a government officer or employee. No person shall deceitfully impersonate or represent that he is any government officer or employee. (1994 Code, § 10-210)

11-502. Resisting or interfering with town personnel. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the town while such officer or employee is performing or attempting to perform his municipal duties. (1994 Code, § 10-209)

CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

SECTION

11-601. Air rifles, etc.
11-602. Throwing missiles.
11-603. Weapons and firearms generally.

11-601. Air rifles, etc. It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1994 Code, § 10-212)

11-602. Throwing missiles. It shall be unlawful for any person to maliciously throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1994 Code, § 10-213)

11-603. Weapons and firearms generally. It shall be unlawful for any unauthorized person to discharge a firearm within the municipality. (1994 Code, § 10-211, modified)

CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-701. Trespassing.
11-702. Trespassing on trains.
11-703. Interference with traffic.

11-701. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1994 Code, § 10-223)

11-702. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1994 Code, § 10-219)

11-703. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1994 Code, § 10-229)

CHAPTER 8

MISCELLANEOUS

SECTION
11-801. Caves, wells, cisterns, etc.
11-802. Posting notices, etc.
11-803. Child curfew.
11-804. Wearing masks.

11-801. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1994 Code, § 10-228)

11-802. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1994 Code, § 10-224)

11-803. Child curfew. (1) No minor seventeen (17) years of age shall remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the town during the following time frames:

(a) Sunday through Thursday between the hours of eleven o'clock P.M. (11:00 P.M.) to six o'clock A.M. (6:00 A.M.).

(b) Friday and Saturday between the hours of twelve o'clock (12:00) midnight to six o'clock (6:00 A.M.).

(2) No minor sixteen (16) years of age and under shall remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the town during the following time frames:

(a) Sunday through Thursday between the hours of ten o'clock (10:00 P.M.) to six o'clock A.M. (6:00 A.M.).

(b) Friday and Saturday between the hours of eleven o'clock P.M. (11:00 P.M.) to six o'clock A.M. (6:00 A.M.).

No parent or guardian of a minor shall knowingly permit or by inefficient control allow such minor to be or remain upon any street or establishment under circumstances not constituting an exception to, or otherwise beyond the scope of these provisions. The term "knowingly" includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. The term "knowingly" is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It is not a defense that a parent was completely indifferent to the activities or conduct of whereabouts of such minor child.

(3) Exceptions. The following are valid exceptions to the operation of the curfew:

(a) At any time, if a minor is accompanied by such minor's parent or guardian.

(b) When accompanied by an adult authorized by a parent or guardian of such minor to take such parent or guardian's place in accompanying the minor for a designated period of time and purpose within a specified area;

(c) Until the hour of twelve-thirty (12:30) A.M. if the minor is on an errand as directed by such minor's parent;

(d) If the minor is legally employed, for the period from forth-five (45) minutes before to forty-five (45) minutes after work, while going directly between the minor's home and place of employment. This exception shall also apply if the minor is in a public place during the curfew hours in the course of the minor's employment. To come within this exception, the minor must be carrying written evidence of employment which is issued by the employer;

(e) Until the hour of twelve-thirty (12:30) A.M. if the minor is on the property of or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto, if the owner of the adjacent building does not communicate an objection to the minor and the law enforcement officer;

(f) When returning home by a direct route (and within thirty (30) minutes of the termination of) a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. This exception does not apply beyond one o'clock (1:00) A.M.

(g) In the case of reasonable necessity, but only after such minor's parent has communicated to law enforcement personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose including place of origin and destination. A copy of such communication, or the record thereof, an appropriate notation of the time it was received and of the names and addresses of such parent or guardian and minor constitute evidence of qualification under this exception;

(h) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. A minor shall show evidence of the good faith of such exercise and provide notice to the town officials by first delivering to the appropriate law enforcement authority a written communication, signed by such minor, with the minor's home address and telephone number addressed to the mayor of the town specifying when, where and in what manner the minor will be on the streets at night during hours when the curfew is still otherwise applicable to the minor

in the exercise of a First Amendment right specified in such communications; and

(i) When a minor is, with parental consent, in a motor vehicle engaged in good faith interstate travel.

Each of the foregoing exceptions and the limitations are severable.

(4) Enforcement. When any child is in violation of this title, the apprehending officer shall act in one (1) of the following ways:

(a) In the case of a first violation, and if in the opinion of the officer such action would be effective, take the child to the child's home and warn and counsel the parents or guardians;

(b) Issue a summons to the child and/or parents or guardians to appear at the juvenile court; or

(c) Bring the child into the custody of the juvenile court for disposition.

A minor violating the provisions of this title shall commit an unruly act, the disposition of which shall be governed pursuant to Tennessee Code Annotated, title 37.

Any parent, guardian, or other person having the care, custody, and control of a minor violating the provisions of this section, upon conviction, shall be fined no more than fifty dollars ($50.00) for each offense; each violation of the provisions of this section shall constitute a separate offense. (Ord. #1997-16, Oct. 1997)

11-804. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

(1) Children under the age of ten (10) years;

(2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons;

(3) Persons wearing gas masks in civil defense drills and exercises or emergencies;

(4) Any person having a special permit issued by the town recorder to wear a traditional holiday costume. (1994 Code, § 10-232)

CHAPTER 9

PANHANDLING ORDINANCE

SECTION

11-901. Title.
11-902. Purpose--exclusion--scope.
11-903. Definitions.
11-904. Permit required.
11-905. Time of panhandling.
11-906. Place of panhandling.
11-901. Manner of panhandling.
11-908. False or misleading solicitation.
11-909. Accosting of persons or obstructing traffic.
11-910. Severability.
11-911. Penalties for violation.

11-901. Title. This chapter shall be known as the panhandling ordinance. (as added by Ord. #2001-03, April 2001)

11-902. Purpose–exclusion–scope. (1) Purpose. The purpose of this chapter and legislation is to regulate and punish violations of the act of panhandling, rather than the status of the person.

(2) Exclusion. The activities of panhandling do not include a person who passively stands or sits with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person.

(3) Scope. Nothing in this section shall abrogate or abridge provisions of title 9, chapters 2 and 3, solicitation of public funds, or the laws of state and federal government, or those laws regulating nonprofit, religious, educational, civic or benevolent organizations. (as added by Ord. #2001-03, April 2001)

11-903. Definitions. For the purposes of this chapter, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:

(1) "Assault" means assaultive offenses as set out in Tennessee Code Annotated, §§ 39-13-101, 39-13-102 and 39-13-103, and classed as criminal offenses.

(2) "Assault" does not apply to manner of panhandling as set out in title 11, chapter 9, and classed as a misdemeanor.

(3) "Aggressively beg" means to beg with the intent to intimidate another person into giving money or goods.

(4) "Beg" means to ask for money or goods as a charity, whether by words, bodily gesture, signs or other means.

(5) "Donation" means any item of value, monetary or otherwise, accepted by a panhandler.

(6) "Exempt organizations" mean any nonprofit, religious, civic or benevolent organization described in section 501(c) of the Internal Revenue Code of 1986.

(7) "Intimidate" means to engage intentionally in conduct which would make a reasonable person fearful or feel compelled.

Also, for purposes of this chapter, a person commits the offense of intimidating others from exercising civil rights who:

(a) Injures or threatens to injure or coerces another person with the intent to unlawfully intimidate another from the free exercise or enjoyment of any right or privilege secured by the Constitution or laws of the State of Tennessee; or

(b) Injures or threatens to injure or coerces another person with the intent to unlawfully intimidate another because that other exercised any right or privilege secured by the Constitution or laws of the United States or the Constitution or laws of the State of Tennessee.

(8) "Obstruct pedestrian or vehicular traffic" means when a person without legal privilege, intentionally, knowingly or recklessly walks, stands, sits, lies, or places an object in such a manner as another person or a driver of a vehicle to take evasive action to avoid physical contact.

Acts authorized as an exercise of one's constitutional right to picket, or to legally protest, and acts authorized by a permit issued pursuant to this chapter shall not constitute obstruction of pedestrian or vehicular traffic.

(9) "Panhandler" is any person, other than an exempt organization, acting on his or her own behalf, requesting an immediate donation of money or exchange of any services; or any person, acting on his or her own behalf, attempting to sell an item for an amount far exceeding its value, or where the item is already offered free-of-charge to the general public, and a reasonable person would understand that the purchase is in substance a donation.

(10) "Panhandling" is the solicitation of any item of value, monetary or otherwise, made by a person, other than an exempt organization, acting on his or her own behalf, requesting an immediate donation of money or exchange of any services; or any person, acting on his or her own behalf, attempting to sell an item for an amount far exceeding its value, or an item which already offered free-of-charge to the general public, and under circumstances a reasonable person would understand that the purchase is in substance a donation.

(11) "Pedestrian interference" means the obstruction of pedestrian or vehicular traffic by aggressively begging which impedes the passageway or a pedestrian or vehicular traffic.

(12) "Permit" means the permit required under this chapter.

(13) "Public place" means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public including those that serve food

or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them. (as added by Ord. #2007-03, April 2007)

11-904. Permit required. (1) Generally. Any person panhandling within the below described geographical or restricted areas shall be required to have a permit, as issued by the town recorder, or his or her designee, in his or her possession at all times, subject to exhibition on demand by any person, and shall be subject to conditions as set out in the following §§ 11-904 through 11-909.

(2) Restricted geographical areas. Without a permit, persons shall be restricted from panhandling in the following geographical areas:

(a) Depot Square, and the connector streets;

(b) Public parks, golf courses;

(c) Municipal or governmentally owned buildings;

(d) Municipally owned recreational and exhibition buildings;

(e) Public library facilities;

(f) Public or dedicated thoroughfares. (as added by Ord. #2007-03, April 2007)

11-905. Time of panhandling. Any person who panhandles after sunset or before sunrise is guilty of a misdemeanor. (as added by Ord. #2007-03, April 2007)

11-906. Place of panhandling. Any person who panhandles when the person solicited is in any of the following places is guilty of a misdemeanor:

(1) At any bus, or train stop;

(2) In any public transportation vehicle or facility including loading and unloading areas;

(3) In any vehicle on the street;

(4) Any area within twenty-five (25) feet (in any direction) of an automatic teller machine or entrance to a bank;

(5) Schools and playgrounds;

(6) On private property, unless the panhandler has written permission from the owner or occupant. (as added by Ord. #2007-03, April 2007)

11-907. Manner of panhandling. Any person who, in a public place, panhandles in any of the following ways or manner is guilty of a misdemeanor:

(1) By using profane or abusive language, either during the solicitation or following a refusal;

(2) By panhandling in a group of two (2) or more persons;

(3) By any statement, gesture or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat;

(4) By intimidating or obstructing pedestrian or vehicular traffic;

(5) By assaulting or aggressively begging. (as added by Ord. #2001-03, April 2001)

11-908. __False or misleading solicitation__. (1) Any person who knowingly makes any false, misuse or misleading representation in the course of soliciting a donation is guilty of a misdemeanor. False or misleading representations include, but are not limited to, the following:

(a) Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet the need and does not disclose that fact;

(b) Stating that the donation is needed to meet a need which does not exist;

(c) Stating that the solicitor is from out of town and stranded, when that is not true;

(d) Wearing a military uniform or other indication of military service, when the solicitor is neither a present nor former member of the service indicated;

(e) Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;

(f) Use of any makeup or device to simulate any deformity;

(g) Stating that the solicitor is homeless, when he or she is not;

(h) Stating the donation is for food but in reality is used for sidewalk drugs or illegal contraband;

(i) Using and exposing minors/children to hazardous conditions i.e., cold, heat, animals, weather and/or strangers, to solicit funds;

(j) To offer to sell newspapers, magazines, periodicals or pamphlets for a price, which are offered free-of-charge to the general public.

(2) Any person who solicits a donation stating that the funds are needed for a specific purpose and then spends the funds received for a different purpose is guilty of a misdemeanor.

(3) This chapter and section establish a single offense. Evidence which establishes beyond a reasonable doubt that the defendant violated this chapter and section is sufficient for conviction and need not establish which subsection was violated. (as added by Ord. #2001-03, April 2001)

11-909. __Accosting of persons or obstructing traffic__. Every person who commits any of the following acts is guilty of a misdemeanor:

(1) Who assaults, aggressively begs, intimidates or accosts other persons in any public place or in any place open to the public, for the purpose of panhandling or soliciting a donation for immediate payment as defined in § 11-903;

(2) Obstructs pedestrian or vehicular traffic, or interferes at a time when a person, or vehicle, is not in a position to walk or drive away;

(3) Who accosts other persons in any public place, or in any place open to the public, for donations if it is a general and known fact to all reasonable people that appropriate institutions, organizations or charity groups exist who make available the same daily necessities and needs at no cost. (as added by Ord. #2007-03, April 2007)

11-910. Severability. If any term and/or provision contained herein shall, to any extent, be invalid or unenforceable in any respect under the laws governing this ordinance, the remainder of this ordinance shall not be affected thereby, and each term and/or provision of this ordinance shall be valid and enforceable to the fullest extent permitted by law. (as added by Ord. #2007-03, April 2007)

11-911. Penalties for violation. Any person found violating any one or all of the sections of this chapter is deemed guilty of a misdemeanor and upon conviction subject to a civil penalty of fifty dollars ($50.00) for each separate violation of this chapter. (as added by Ord. #2007-03, April 2007)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER
1. APPLICABLE CODES.
2. HOUSE MOVING.

CHAPTER 1

APPLICABLE CODES

SECTION
12-101. Shelby County Codes effective within town.

12-101. Shelby County Codes effective within town. The building, plumbing, electrical, gas, and housing codes in effect in Shelby County shall also be effective within the corporate limits and shall be enforced by Shelby County and/or Town of Arlington personnel. (Ord. #2005-05, March 2005)

CHAPTER 2

HOUSE MOVING

SECTION

12-201. Regulating the moving of houses and other like previously constructed structures within the municipal limits of the Town of Arlington.

12-201. Regulating the moving of houses and other like previously constructed structures within the municipal limits of the Town of Arlington. (1) For the purpose of indemnifying the Town of Arlington and any person from loss or damage resulting from the moving of a house or preconstructed structure of a similar type and to guarantee the completion of the relocation and construction of such structure, a house moving permit shall be required. Application for such permit shall be made to the board of mayor and aldermen and said board shall conduct a full and open hearing prior to issuance. The board of mayor and aldermen shall conduct an investigation into the impact of the proposed move and if it is determined that the move would constitute a significant and detrimental effect on the neighborhood in which the structure is to be moved the board shall refuse to issue such permit.

(2) If the proposed move is found not to be detrimental to the existing neighborhood the board is empowered to impose such conditions it may deem appropriate including, but not limited to, a set time schedule for the completion of the work, set back requirements and times at which the move may take place.

(3) Parties that are granted a permit shall post a performance bond with the town of a form and type sufficient to guarantee the completion of the project within the period specified by the board. The amount of the bond shall be determined by the board in consideration of the type and size of the structure being moved, the proposed transportation route, the potential for damage, and any other relevant factors. The amount of the bond shall not be less than ten thousand dollars ($10,000.00).

(4) In signing the permit application, the applicant acknowledges that the permit, when granted, allows the use of public streets in an extraordinary and unusual manner. The applicant further acknowledges that in the event that the applicant fails to complete the relocation and construction of the structure in accordance with applicable building and zoning codes within the period specified by the board, he authorizes the town to contract with a contractor, licensed under the laws of Tennessee, to move or demolish the structure and invoke the bond for compensation of any and all costs incurred by the town as a result of applicant's default. (1994 Code, § 4-201)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER
1. MISCELLANEOUS.
2. JUNKYARDS.
3. WEEDS, RINK GRASS AND NOXIOUS GROWTH.
4. RESIDENTIAL ANTI-NEGLECT ORDINANCE.
5. JUNK VEHICLES REGULATION.

CHAPTER 1

MISCELLANEOUS

SECTION
13-101. Health officer.
13-102. House trailers.
13-103. Stagnant water.
13-104. Dead animals.
13-105. Health and sanitation nuisances.
13-106. Abatement of nuisances and other conditions.
13-107. Right of entry of health department personnel.
13-108. Inoperative vehicles on or adjacent to residential property.

13-101. Health officer. The Director of the Memphis and Shelby County Health Department, his designees and assigns, is hereby designated and empowered as the Health Officer for Arlington, Tennessee and pursuant to the terms of this code is granted authority within Arlington, Tennessee, and its jurisdictional limits to enforce the health regulations of Arlington, Tennessee, including, but not limited to, the provisions of this code, and whenever the term "health officer" is used in this code, it is intended to refer to the said director. (1994 Code, § 8-101)

13-102. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures, and the proposed location conforms to the zoning provisions of the town, and unless a permit therefor shall have been first duly

---

[1]Municipal code references
Refuse: title 17.

issued by the building official, as provided for in the building code. (1994 Code, § 8-103)

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1994 Code, § 8-104)

13-104. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1994 Code, § 8-106)

13-105. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1994 Code, § 8-107)

13-106. Abatement of nuisances and other conditions. It shall be the duty of the health department, through the health officer, engineers, assistants, environmentalists or other employees, to serve notice in writing upon which any nuisance or violation of the chapter, or regulations or order of the health department may be found, or upon the person maintaining any nuisance, or aiding therein, requiring him to abate or correct the same in such manner as the health department shall prescribe, within a reasonable time. It shall not be necessary in any case for the health officer to specify in his notice the manner in which a nuisance shall be abated unless he shall deem it advisable to do so. Such notice may be given or served by engineers, assistants, environmentalists or other employees of the health department, as well as by the health officer. If the person to whom such notice is lawfully directed fails, neglects, or refuses to comply with the requirements of such order, within the time specified after written notice has been served, he shall be guilty of a misdemeanor, and each day's violation shall constitute a separate offense. Upon the failure of such person to comply with such requirements, it shall be the duty of the department of health, whenever public necessity requires it, to proceed at once, upon the expiration of the time specified in such notice, to appeal to the courts and cause such nuisance to be abated.

Whenever the owner, occupant, or agent of any premises or person maintaining or aiding in the maintenance of a nuisance is unknown or cannot

be found, the department of health shall proceed in cases of emergency relief to abate the nuisance without notice.

In the event any nuisance is abated by the department of health, it shall keep an itemized account thereof and shall certify a bill thereof to the town attorney, whose duty it shall be to collect the same according to law. (1994 Code, § 8-108)

13-107. Right of entry of health department personnel. Upon formal complaint, and for the purpose of carrying out the requirements of this chapter and other laws and ordinances relating to public health and sanitation, and the regulations of the health department, the health officer and his authorized representatives, including engineers, assistants, environmentalists and other employees, shall be permitted at all reasonable times to enter into any manufacturing plant, business or other building, both commercial and residential, and all lots, grounds, and premises, in order to examine thoroughly any item in relation to public health and sanitation and other conditions thereon and therein. (1994 Code, § 8-109)

13-108. Inoperative vehicles on or adjacent to residential property. No person shall park, store or leave or permit the parking, storing or leaving of any inoperable motor vehicle upon any residential lot or on any street adjacent to the lot for a period in excess of thirty (30) days unless such vehicle is completely enclosed within a building or unless such vehicle is so stored or parked on such property in connection with a duly licensed business or commercial enterprise operated and conducted pursuant to law when such parking or storing of vehicles is necessary to the operation of the business or commercial enterprise.

Inoperable motor vehicle shall mean a motor vehicle which is wrecked, junked, without one (1) or more wheels or inflated tires, burned throughout, immobilized, partially dismantled, incapable of moving under its own power or otherwise incapable of being operated. (Ord. #1997-11, Sept. 1997)

CHAPTER 2

JUNKYARDS[1]

SECTION
13-201. Definitions.
13-202. Junkyards screening.
13-203. Screening methods.
13-204. Requirements for effective screening.
13-205. Maintenance of screens.
13-206. Utilization of highway right-of-way.
13-207. Non-conforming junkyards.
13-208. Permits and fees.

13-201. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

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

(3) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

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

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the town. (1994 Code, § 8-701)

13-202. Junkyards screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this code. (1994 Code, § 8-702)

---

[1]Municipal code reference
Inoperative vehicles on residential property: § 13-108.

13-203. Screening methods. The following methods and materials for screening are given for consideration only:

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

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

(3) Architectural barriers. The utilization of:

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

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

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

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen. (1994 Code, § 8-703)

13-204. Requirements for effective screening. Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the town. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

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

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

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

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (1994 Code, § 8-704)

13-205. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the town.

If not replaced within sixty (60) days the Town of Arlington shall replace said screening and shall require payment upon demand. Failure to pay in full

shall result in the fee plus interest to be assessed to the property and shall be combined with the subsequent taxation of the property by the Town of Arlington. (1995 Code, § 8-705)

13-206. **Utilization of highway right-of-way**. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (1994 Code, § 8-706)

13-207. **Non-conforming junkyards**. Those junkyards within the Town of Arlington and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming". Such junkyards may be subject to the following conditions, any violation of which shall terminate the non-conforming status:

(1) The junkyard must continue to be lawfully maintained.

(2) There must be existing property rights in the junk or junkyard.

(3) Abandoned junkyards shall no longer be lawful.

(4) The location of the junkyard may not be changed for any reason. If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the Town of Arlington.

(5) The junkyard may not be extended or enlarged. (1994 Code, § 8-707)

13-208. **Permits and fees**. It shall be unlawful for any junkyard located within the Town of Arlington to operate with out a "Junkyard Control Permit" issued by the Town of Arlington.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The Town of Arlington's fiscal year begins on July 1 and ends on June 30.

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

(3) All applications for an original or renewal permit shall be made on a form prescribed by the Town of Arlington.

(4) Permits shall be issued only to those junkyards that are in compliance with these rules.

(5) A permit is valid only while held by the permittee and for the location for which it is issued. (1994 Code, § 8-708)

CHAPTER 3

WEEDS, RINK GRASS AND NOXIOUS GROWTH

SECTION

13-301. Brush and weed control.
13-302. Duty of property owner to cut.
13-303. Maximum height allowed for grass, weeds, and noxious growths.
13-304. Notice to property owner to cut.
13-305. Cutting by town.
13-306. Penalty for violation of brush and weed control.

13-301. Brush and weed control. Weeds and noxious growth, as referred to in this chapter shall not be interpreted to require the property owner to cut down trees, shrubs or crops, on his property. Crops being defined as any product being raised for sale or for the feeding of livestock such as corm, cotton, hay or other marketable products. Weeds and noxious growth shall, however, include trees and shrubbery that overhang either streets or walkways abutting the town's streets, so as to branch passing vehicles or pedestrians. (Ord. #2002-04, July 2002)

13-302. Duty of property owner to cut. The owners of all lands or lots in the town shall keep all weeds, rank grass and noxious growths of my kind upon such property cut or clipped. (Ord. #2002-04, July 2002)

13-303. Maximum height allowed for grass, weeds, and noxious growths. All portions of land, whether improved or unimproved, within the town shall be kept, cut, clipped or controlled through chemical means as frequently as necessary to ensure that weeds, grass, and noxious growths do not exceed a height of one (1) foot if located in an undeveloped area, or a height of one-half (½) foot if located within a developed area, except for those parcels containing five (5) acres or more land area. Parcels of land that have been officially designated as a "natural" area by the federal, state, or local government are exempt from this section. Grass shall be cut a minimum of three (3) times per growing season. A "developed" area shall refer to a platted subdivision or lot of record.

Parcels containing five (5) acres or more land area that fronts a public street or roadway or adjoins a developed area shall be cleared of all weeds, tall grass and other noxious vegetation within one hundred (100) feet of the property line adjoining the developed area and within one hundred (100) feet of the pavement edge of any street or roadway adjoining the subject parcel to and including the right-of-way to the pavement edge. Excluded herefrom are natural wooded areas containing trees on the subject property. The property owner shall be responsible for mowing pass and noxious vegetation only to the edge of the

trees on said property including areas along adjoining developed areas or public right-of-ways. (Ord. #2002-04, July 2002)

13-304. Notice to property owner to cut. Upon the failure of any owner of property within the town to cut, or have cut, weeds, rank grass or noxious growth, it shall be the duty of the public works department to serve a notice on the owner of such property to cut or have cut, within ten (10) days of the serving of such notice, all weeds, grass or noxious growth upon his property. Such notice may be served personally on the owner of the property, may be mailed to the last known address of such owner by registered or certified mail or may be posted on the property on which such weeds, grass or noxious growths exist. (Ord. #2002-04, July 2002)

13-305. Cutting by town. (1) Upon the failure of any owner of lots or lands in the town to cut or cause to be cut, weeds, grass or noxious growths upon the property described in the notice mentioned in § 13-304 within ten (10) days thereof: the public works department is authorized and directed to have such weeds, grass and noxious growth cut, and a statement of the cost thereof shall be filed with the finance director. Work performed under this section by the town may be accomplished by cutting or by chemical control, and with town forces or by retention of services from a private contract to perform on the town's behalf in accordance with the town's contracting and purchasing procedures. If the violation is not corrected within the time specified herein, the town will correct the violation and record a notice of lien against the property for all costs incurred. The charge is the cost to cut the lot plus a one hundred dollar ($100.00) town administration fee.

(2) There shall be recorded a notice of lien for the cost incurred by the town as set out hereinabove; a copy of the notice of the lien shall be recorded in the county register's office, and a certified copy of same forwarded to the last known address of the owner of the property. This lien shall affix to the parcel of real estate immediately and shall be perfected by a suit in the chancery court of the county, within twelve (12) months from the filing of the notice of lien in the register's office and enforcement of the lien shall follow the provisions of Tennessee Code Annotated, §§ 66-11-101 et seq.

(3) Upon receipt of the statement of costs of cutting weeds or chemical control of grass or noxious growths pursuant to this section, the finance director may transmit a true copy thereof to the town attorney, who shall forthwith institute suit or take such other proceedings as may be necessary to enforce the lien on such property. The costs of said suit including but not limited to attorney's fees shall be taxed to property owner.

(4) All uncollected costs for cutting or chemical control of weeds, grass or noxious growths for the current year shall be certified to the finance director on or before December thirty-first (31st) of each year. It shall be the duty of the finance director to collect, as a special tax, the amount so certified at the time

town taxes levied against properties on which the cutting or chemical control was done for the next succeeding year are noxious growths pursuant to this section, is hereby declared to be a special tax to be collected as general taxes levied by the town. (Ord. #2002-04, July 2002)

13-306. **Penalty for violation of brush and weed control**. Any person who violates any section of this chapter shall upon conviction thereof be punished by a fine of not more than fifty dollars ($50.00) and each day said violation continues shall be considered a separate offense. (Ord. #2002-04, July 2002)

CHAPTER 4

RESIDENTIAL ANTI-NEGLECT ORDINANCE

SECTION

13-401. Purpose.
13-402. Penalty for violation.
13-403. Associates may act for the town or town superintendent.
13-404. Resisting and interfering with town employees.
13-405. Occupant to give owner access to premises.
13-406. Report to city attorney, or his designee, of failure to comply with orders or removal of notices under chapter.
13-407. Changes required by chapter to be made in accord with building code.
13-408. Chapter does not permit zoning violations.
13-409. Chapter does not abolish or impair other remedies.
13-410. Defacing or removing placards or notices posted under chapter.
13-411. Renting or occupying unfit dwelling.
13-412. Failure to remove personal property.
13-413. Appeals from orders under chapter.
13-414. Dangerous structures; defined.
13-415. Dangerous structures declared a public nuisance.
13-416. Closing of adjacent streets and sidewalks.
13-417. Standards for ordering repair, vacation or demolition.
13-418. Notice to correct dangerous structures.
13-419. Exterior to be maintained in clean and sanitary condition.
13-420. Accumulations of stagnant water, erosion.
13-421. Extermination of insects, rodents, etc.
13-422. Maintenance of accessory structures.
13-423. Garbage cans.
13-424. Parking regulations.
13-425. Failure to comply with order issued pursuant to this chapter.

13-401. <u>Purpose</u>. The purpose of this chapter is to protect the public health, safety and welfare in buildings, structures, and premises as hereinafter provided by:

(1) Establishing minimum standards for basic equipment and facilities for light, ventilation, space, heating and sanitation; for safety from fire; for space, use and location; for safe and sanitary maintenance; in all dwellings and multifamily dwellings now in existence.

(2) Fixing the responsibilities of owners, operators and occupants of buildings, structures, and premises.

(3) Providing for administration, enforcement and penalties. (Ord. #2004-15, Dec. 2004)

13-402. **Penalty for violation**. It shall be unlawful for any owner, occupant, mortgagee, lessee, or any other person to violate any of the provisions of this chapter, and upon conviction thereof, shall be punished by a fine for each offense and/or any remedial action that shall be deemed necessary pursuant to the inherent power of the court. Each day a violation continues after a service of notice specifying a compliance date shall be deemed a separate offense. (Ord. #2004-15, Dec. 2004)

13-403. **Associates may act for the town or town superintendent**. Any duty or act required of or authorized to be done by the town or town superintendent may be performed by one of his assistants to whom the town superintendent may delegate such powers, subject to his revision and the approval of the director of public service and neighborhoods. (Ord. #2004-15, Dec. 2004)

13-404. **Resisting and interfering with town employees**. It shall be unlawful for any person to resist or interfere with a town employee in the performance of their duties by acting in a violent and tumultuous manner toward any town employees so that such employee is placed in danger of safety of his life, limb, or health. (Ord. #2004-15, Dec. 2004)

13-405. **Occupant to give owner access to premises**. Every occupant of a building, structure, or premises shall give the owner or operator thereof, or his agent or employee, access to any part of such building, structure, or premises at reasonable times, for the purpose of making such inspections, maintenance, repairs, or alterations as are necessary to comply with the provisions of this chapter. (Ord. #2004-15, Dec. 2004)

13-406. **Report to city attorney or his designee, of failure to comply with orders or removal of notices under chapter**. The town superintendent shall report to the city attorney, or his designee, the names of all persons who shall fail to comply with any order he is obliged to issue under the provisions of this chapter, or who shall remove any official notice he is obliged to post, for such legal action as the city attorney, or his designee, may deem necessary. (Ord. #2004-15, Dec. 2004)

13-407. **Changes required by chapter to be made in accord with building code**. (1) Any alterations to buildings, structures, or premises, or changes of use therein which may be caused directly or indirectly by the enforcement chapter shall be done in accordance with applicable sections of the building code.

(2) Any owner, authorized agent or contractor who desires to after the use of occupancy of a building, structure, or premises shall first make

application to the building official and obtain the required permit. (Ord. #2004-15, Dec. 2004)

13-408. Chapter does not permit zoning violations. Nothing in this chapter shall permit the establishment or conversion of a building, structure, or premises in any zone except where permitted by the zoning ordinances, nor the continuation of such nonconforming use in any zone except as provided therein. (Ord. #2004-15, Dec. 2004)

13-409. Chapter does not abolish or impair other remedies. Nothing in this chapter shall be deemed to abolish or impair existing remedies of the town or its officers or agencies relating to the removal of rubbish, garbage, debris, abandoned vehicles, or personal property, or the demolition of any buildings or structures which are deemed to be dangerous or unsanitary. (Ord. #2004-15, Dec. 2004)

13-410. Defacing or removing placards or notices posted under chapter. No person shall deface or remove any placard or notice placed on any dwelling, multifamily dwelling, building, or premises pursuant to this chapter, except by authority from the town. (Ord. #2004-15, Dec. 2004)

13-411. Renting or occupying unfit dwelling. No person shall knowingly rent, lease, or occupy, or permit any person to rent or occupy any dwelling, building, or premises found unfit for human occupancy or detrimental to the public health, safety, and welfare under the provisions of this chapter. (Ord. #2004-15, Dec. 2004)

13-412. Failure to remove personal property. It shall be unlawful for any owner of personal property to fail or refuse to comply with the orders of the town to move from the premises abandoned vehicles, appliances, vehicle parts and/or any other piece or pieces of personal property if such personal property is dangerous to the public health, safety, or welfare; or creates an unsightly condition upon such property tending to reduce the value thereof; or is a nuisance; or invites plundering; or promotes urban blight and deterioration in the community; or creates a fire hazard; or violates the zoning regulations of the town. (Ord. #2004-15, Dec. 2004)

13-413. Appeals from orders under chapter. Any person affected adversely by an order or ruling of the town superintendent or his designee on matters pertaining to the enforcement of this chapter, and who takes exception to such order or ruling and desires a further adjudication of the matter, may appeal to a court of competent jurisdiction. (Ord. #2004-15, Dec. 2004)

13-414. Dangerous structures; defined. All buildings or structures, including among others, garages, sheds, fences and similar accessory structures, which have any or all of the following defects shall be deemed "dangerous structures" and are defined as but not limited to the following:

(1) Those which by reason of inadequate maintenance, dilapidation, obsolescence or abandonment are unsafe, unsanitary or which constitute a fire hazard.

(2) Those whose exterior walls lean or buckle to such an extent that excessive bond or anchorage stresses are created.

(3) Those whose foundation members, including joists, sills, piers, rafters, studs and footings, are damaged, deteriorated, missing and are not capable of bearing imposed loads safely.

(4) Those which, by damage or deterioration of the nonsupporting outside walls or covering, including the roof and floors, are dangerous to the occupant or are detrimental to public safety and welfare.

(5) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, morals, or the general health and welfare of the occupant or the people of the town.

(6) Those which have improperly distributed loads upon the floors or roofs in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(7) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human occupancy, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.

(8) Those which have parts thereof which are so attached or connected that they may fall or separate and injure occupants or members of the public or may damage property.

(9) Those with roof covering, which leak to such an extent as to cause plaster to fall, or which repeatedly with every rainfall, saturate chattels or the occupant or supporting members of the roof, or the electric wiring or fixtures so as to render them unsafe.

(10) Those having inadequate facilities for egress in case of fire or panic.

(11) Those having light, air, ventilation and sanitation facilities, which are inadequate to protect the health, safety or general welfare of human beings, who live or may live therein. (Ord. #2004-15, Dec. 2004)

13-415. Dangerous structures declared a public nuisance. All dangerous structures are hereby declared to be a public nuisance and shall be condemned and vacated, repaired or demolished, as provided in this chapter. (Ord. #2004-15, Dec. 2004)

13-416. Closing of adjacent streets and sidewalks. The town may, when necessary for the public safety, temporarily close the sidewalks and streets adjacent to a dangerous structure or part thereof, and prohibit the same from being used and the police and fire departments when called upon by the town shall enforce such orders or requirements. (Ord. #2004-15, Dec. 2004)

13-417. Standards for ordering repair, vacation or demolition. The following standards shall be followed in substance by the town in ordering repair, vacation or demolition of dangerous structures under this chapter:

(1) Repairs. (a) If an existing building is damaged by fire or otherwise in excess of fifty (50) percent of its then physical value before such damage is repaired, it shall be made to conform to the requirements of the building code of the applicable governing body for new buildings.

(b) If the cost of such alterations or repairs within any twelve (12) month period or the amount of such damage as referred to in subsection (a)(1) is more than twenty-five percent (25%) but not more than fifty percent (50%) of the then physical value of the building, the portions to be altered or repaired shall be made to conform to the requirements of the building code of the applicable governing body for new buildings to such extent as the building official may determine.

(c) Repairs and alterations, not covered by the preceding subsections of this section, restoring a building to its condition prior to damage or deterioration, or altering it in conformity with the provisions of the building code of the applicable governing body, or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed.

(2) Vacation. If the dangerous structure is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered vacated pending condemnation proceedings.

(3) Demolition. In any case where a dangerous structure is fifty percent (50%) damaged, decayed or deteriorated compared to its replacement value or its physical structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished, in all cases where a dangerous structure is a fire hazard existing or erected in violation of the terms of this chapter or any ordinance of the town, it shalt be demolished. (Ord. #2004-15, Dec. 2004)

13-418. Notice to correct dangerous structures. Whenever the town has declared a building or structure to be dangerous under these provisions, it shall give notice to the owner, occupant, mortgagee, lessee or any other person found to have an interest in the dangerous building or structure and placard the dwelling or multifamily dwelling as a dangerous structure. Such notice shall:

(1) Be in writing;

(2) Include a description of the real estate sufficient for identification;

(3) Include a statement of the reason or reasons why it is being issued;

(4) State the time to correct the condition which shalt not exceed thirty (30) days from the date of the notice;

(5) State the time the occupants must vacate the dwelling units. (Ord. #2004-15, Dec. 2004)

13-419. Exterior to be maintained in clean and sanitary condition. All exterior property areas shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage. (Ord. #2004-15, Dec. 2004)

13-420. Accumulations of stagnant water, erosion. (1) All premises shall be maintained so as to prevent the accumulation of stagnant water thereon, or within any building, structure, or swimming pool located thereon.

(2) All premises shall be graded and maintained so as to prevent soil erosion which may damage the buildings, structures, or premises. (Ord. #2004-15, Dec. 2004)

13-421. Extermination of insects, rodents, etc. Every owner of a building, structure, or premises shall be responsible for the extermination of insects, rodents, vermin or other pests in all exterior areas of the premises, except that the occupant shall be responsible for such extermination in the exterior areas of the premises of a single-family dwelling. Whenever infestation exists in the shared or public parts of the premises of other than a single family dwelling, extermination shall be the responsibility of the owner. (Ord. #2004-15, Dec. 2004)

13-422. Maintenance of accessory structures. All accessory structures, including detached garages and fences, shall be maintained structurally sound and in good repair. (Ord. #2004-15, Dec. 2004)

13-423. Garbage cans.[1] It shall be the duty of every owner, lessor, agent or property manager of any multiple dwelling, and it shall be the duty of every occupant of a single or double dwelling in the town, to provide adequate garbage receptacles as may be approved by the town and/or the solid waste contractor. (Ord. #2004-15, Dec. 2004)

13-424. Parking regulations. (1) No recreational vehicle, boat, motor home, truck camper, travel trailer, tent trailer, camping trailer, motorized

---

[1]Municipal code reference
Refuse: title 17.

dwelling, fifth wheel, mobile home, house trailer, trailer, semitrailer, horse trailer, semitrailer, airplane glider, off-highway motor vehicle, snowmobile, sandbuggy, dune buggy, all-terrain vehicle, tractor, implement of husbandry, special mobile equipment or any other recreational/farm equipment shall be parked or stored on any part of the required front or side yard of a lot used for residential purposes, unless said lot is a corner lot that fronts upon more than one dedicated street, in such a case the parking of any of the above described vehicles shall be required to be behind the rear line of the primary residential structure upon the said corner lot.

(2) No automobiles, truck, or other vehicle which requires a current state registration license tag required to travel on public streets and highways shall be parked or stored on any part of the required front or side yard of a lot used for residential purposes other than a hard dustless surface driveway or parking pad approved by town, said driveway or parking pad shall be constructed of concrete or asphalt. On all lots on which a gravel driveway or parking pad was legally constructed prior to the enactment of this section or is allowed by other parts of the Town of Arlington Zoning and Subdivision regulations this gravel surface shall serve as a sufficient driveway or parking pad so long as it contains at least four (4) inches of gravel or rock sufficient for a road base. (Ord. #2005-19, Oct. 2005)

13-425. Failure to comply with order issued pursuant to this chapter. If an owner, occupant, mortgagee, lessee, or other person having an interest in any property or structure, upon whom notice is provided for in this chapter, has been served, shall fail, neglect, or refuse to comply with an order issued pursuant to this chapter, said owner, occupant, mortgagee, lessee, or other person, shall be summoned to the appropriate court to show why said order has not been complied with. (Ord. #2004-19, Dec. 2004)

CHAPTER 5

JUNK VEHICLES REGULATION

SECTION

13-501. Junk vehicles declared a public nuisance.
13-502. Definitions.
13-503. Violations a civil offense.
13-504. Exceptions.
13-505. Notice to remove.
13-506. Failure to remove declared misdemeanor.
13-507. Penalty for violations.

13-501. Junk vehicles declared a public nuisance. The accumulation and storage of junk vehicles on public and private property is hereby found to create an unsightly condition upon the property tending to reduce the value thereof, to invite plundering, to create fire and safety hazards, and to constitute an attractive nuisance creating a hazard to the health and safety of minors. The accumulation and storage of junk vehicles on public and private property is further found to promote urban blight and deterioration in the city and to violate the zoning regulations of the city in many instances, particularly where such vehicles are maintained in the required yard areas of residential property. Such junk vehicles are in the nature of rubbish, litter, and unsightly debris in violation of health and sanitation laws. Therefore, the accumulation and storage of junk vehicles on public and private property, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such, which remedy shall be in addition to any other remedy provided in this code. (Ord. #2005-18, Oct. 2005)

13-502. Definitions. 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 which vehicles ordinarily use for travel.

(4) "Vehicle" shall mean any machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, self-laying tracks, runner, slides or skids including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors,

trailers, buggies, wagons, and earth-moving equipment, and any part of such machines.

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

(a) Flat tire, missing tire, missing wheel, or missing or partially or totally disassembled tire and wheel;

(b) 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;

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

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

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

(f) 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;

(g) Vehicle is 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; or

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

(i) Vehicle does not have a current state registration license tag required to travel on public streets and highways conspicuously displayed on the vehicle. (Ord. #2005-18, Oct. 2005)

13-503. Violations a civil offense. It shall be unlawful and a civil offense for any person:

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

(3) To park, store, keep or maintain on private property a junk vehicle for more than ten (10) days. (Ord. #2005-18, Oct. 2005)

13-504. **Exceptions**. (1) It shall be permissible for a person to park, store, keep and maintain a junk 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 or other regulations governing the building in which such vehicle is enclosed or the property on which such building is located.

(b) The junk vehicle is parked or stored on property lawfully zoned for a 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, property maintenance and other regulations governing businesses engaged in wrecking, junking or repairing vehicles or the property on which any such business is located.

(2) No person shall park, store, keep or maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of any citizens of the city. (Ord. #2005-18, Oct. 2005)

13-505. **Notice to remove**. Whenever it shall appear that a violation of a provision of this chapter exists, the building inspector shall give, or cause to be given, notice to the registered owner of any motor vehicle which is in violation of this chapter, and he shall give such notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located, advising that the motor vehicle violates the provisions of this chapter and directing that the motor vehicle be moved to a place of lawful storage within seventy two (72) hours. Such notice shall be served upon the owner of the vehicle by leaving a copy of the notice on or within the vehicle. Notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located may be served by conspicuously posting the notice upon the premises. In the case of publicly owned property, notice to the owner of the property where the vehicle is found is hereby dispensed with. (Ord. #2005-18, Oct. 2005)

13-506. Failure to remove declared misdemeanor. The owner of any abandoned vehicle who fails, neglects or refuses to remove the vehicle or to house such vehicle and abate such nuisance in accordance with the notice given pursuant to the provisions of § 13-505 shall be guilty of a misdemeanor. (Ord. #2005-18, Oct. 2005)

13-507. Penalty for violations. Any person determined to be in violation of this chapter shall be subject to a civil penalty of fifty dollars ($50.00) for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (Ord. #2005-18, Oct. 2005)

TITLE 14

ZONING AND LAND USE CONTROL[1]

CHAPTER
1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. STORM WATER MANAGEMENT AND POLLUTION CONTROL.
4. STORM WATER UTILITY ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION
14-101. Creation and membership.
14-102. Organization, rules, staff, and finances.
14-103. Powers and duties.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members: One (1) of the members shall be the Mayor of Arlington. One (1) shall be a member of the board of mayor and aldermen selected by the said board, and the seven (7) remaining members shall be citizens appointed by the mayor. The terms of the five (5) appointive members shall be for (3) years, excepting that in the appointment of the first planning commission under the terms of this chapter, one (1) of said seven (7) members shall be appointed for a term of three (3) years, three (3) or terms of two (2) years, and three (3) for terms of one (1) year. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall have the authority to remove any appointive member at his pleasure. The terms of the mayor and the member selected from the board of mayor and aldermen shall run concurrently with their terms of office. All members shall serve without compensation. (1994 Code, § 11-101, as amended by Ord. #2014-10, Aug. 2014)

14-102. Organization, rules, staff, and finances. The planning commission shall elect its chairman from among its appointive members. The term of the chairman shall be one (1) year with eligibility for re-election. The

---

[1]Municipal code references
Air pollution control: title 20, chapter 1.

planning commission shall adopt rules for its transactions, findings, and determinations, which record shall be a public record. The planning commission may appoint such employees and staff as it may deem necessary for its work and may contract with city planners and other consultants for such services as it may require. The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the board of mayor and aldermen. (1994 Code, § 11-102)

14-103. Powers and duties. From and after the time when the planning commission shall have organized and selected its officers, together with the adoption of its rules or procedures, then said commission shall have the powers, duties, and responsibilities as set forth in all applicable provisions of Tennessee Code Annotated, title 13 or other acts relating to the duties and powers of the municipal planning commissions adopted subsequent thereto. (1994 Code, § 11-103)

CHAPTER 2

ZONING ORDINANCE

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

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Arlington shall be governed by the Town of Arlington Zoning Ordinance and any amendments thereto.[1]

[1]The Town of Arlington Zoning Ordinance, and any amendments thereto, are published as separate documents and are of record in the office of the recorder.

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

CHAPTER 3

STORM WATER MANAGEMENT AND POLLUTION CONTROL

SECTION

14-301. General provisions.
14-302. Jurisdiction.
14-303. Administering entity.
14-304. Definitions.
14-305. Abbreviations.
14-306. Illicit discharges.
14-307. Construction and permanent storm water management design and construction.
14-308. Operation, maintenance and inspection of permanent storm water management facilities.
14-309. Maintenance agreement for storm water management facilities.
14-310. Storm water discharges from regulated industrial sources.
14-311. Enforcement and abatement.
14-312. Appeals.

14-301. General provisions. The intended purpose of this ordinance is to safeguard property and public welfare by regulating storm water drainage and requiring temporary and permanent provisions for its control. If any requirement specified herein conflicts with requirements in other town ordinances, regulations or policies, the more stringent requirement for the safeguard of human life, property or water quality shall apply. Design, planning and engineering companies should use this ordinance to facilitate their designs for control of storm water in new and redevelopment. The objectives of this chapter are to:

(1) Protect, maintain and enhance the environment of the Town of Arlington (referred herein as the town) and the public health, safety and general welfare of the citizens of the town by controlling discharges of pollutants to the town's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands and groundwater of the town;

(2) Enable the town to comply with the National Pollution Discharge Elimination System (NPDES) General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and applicable regulations, 40 CFR 122.26 for storm water discharges;

(3) Allow the town to exercise the powers granted in Tennessee Code Annotated (TCA) § 68-221-1105, which provides that, among other powers, municipalities have with respect to storm water facilities, is the power of ordinance or resolution to:

(a) Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the town, whether or not owned and operated by the town;

(b) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(c) Establish standards to regulate storm water discharges and to regulate storm water contaminants as may be necessary to protect water quality;

(d) Review and approve plans and plats for storm water management in proposed subdivisions or commercial developments;

(e) Issue permits for storm water discharges or for the construction, alteration, extension, or repair of storm water facilities;

(f) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(g) Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(h) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of storm water contamination, whether public or private.

(4) Eliminate any non-allowable discharges to the MS4 that adversely impact water quality;

(5) Provide for the sound use and development of all flood-prone areas in such a manner as to maximize beneficial use without increasing flood hazard potential or diminishing the quality of the natural storm water resources;

(6) Increase the awareness of the public, property owners and potential homebuyers regarding storm water impacts (i.e. flooding, erosion);

(7) Minimize prolonged business interruptions;

(8) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, storm and sanitary sewer lines; and streets and bridges;

(9) Promote a functional public and private storm water management system that will not result in excessive maintenance costs;

(10) Encourage the use of natural and aesthetically pleasing design that maximizes preservation of natural areas;

(11) Promote the use of comprehensive watershed management plans;

(12) Encourage preservation of floodplains, floodways and open spaces; and

(13) Encourage community stewardship of the town's water resources. (Ord. #2004-16, Jan. 2005, as replaced by Ord. #2015-05, June 2015)

14-302. Jurisdiction. The provisions of this chapter apply to the area within the jurisdictional boundaries of the Town of Arlington, Tennessee. (Ord. #2004-16, Jan. 2005, as replaced by Ord. #2015-05, June 2015)

14-303. Administering entity. The mayor or his designee shall administer the provisions of this ordinance. (Ord. #2004-16, Jan. 2005, as replaced by Ord. #2015-05, June 2015)

14-304. Definitions. For the purpose of this chapter, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive.

(1) "Accidental discharges" means a discharge prohibited by this chapter into the Town of Arlington MS4 that occurs by chance and without planning or consideration prior to occurrence.

(2) "Administrative or civil penalties." Under the authority provided in Tennessee Code Annotated § 68-221-1106, the town declares that any person violating the provisions of this chapter may be assessed a civil penalty by the town of not less than fifty dollars ($50.00) and not more than five thousand dollars ($5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) "As-built plans" means drawings depicting conditions as they were actually constructed.

(4) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of storm water runoff. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(5) "Borrow pit" is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this ordinance.

(6) "Brownfield" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

(7) "Buffer zone, water quality buffer or waterway buffer" means a setback from the top of the water body's bank of undisturbed perennial native vegetation, including trees, shrubs, herbaceous vegetation, enhanced or restored vegetation, or the re-establishment of native vegetation bordering streams,

ponds, wetlands, springs, reservoirs or lakes separating the water body from buildings, structures, parking lots, drives and other land uses that alter habitat, geomorphology, water quality, and hydrology. Waterway buffers may also act as floodplain storage and a passive drainage way.

(8) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(9) "Clean Water Act" or "The Act" means the Federal Water Pollution Control Act, as amended, codified at 33 U.S.C. 1251, et seq.

(10) "Clearing" in the definition of discharges associated with construction activity, typically refers to removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also refer to wide area land disturbance in anticipation of non-construction activities; for instance, clearing forested land in order to convert forestland to pasture for wildlife management purposes. Clearing, grading and excavation do not refer to clearing of vegetation along existing or new roadways, highways, dams or power lines for sight distance or other maintenance and/or safety concerns, or cold planing, milling, and/or removal of concrete and/or bituminous asphalt, roadway pavement surfaces. The clearing of land for agricultural purposes is exempt from federal storm water NPDES permitting in accordance with § 401(1)(1) of the 1987 Water Quality Act and state storm water NPDES permitting in accordance with the Tennessee Water Quality Control Act of 1977 (Tennessee Code Annotated § 69-3-1.01 et seq.).

(11) "Chronic violator" means a violator that commits two (2) or more of any violation within a six (6) month period.

(12) "Commercial" means property devoted in whole or part to commerce, that is, the exchange, buying, and selling of commodities or services. The term shall include, by way of example, but not be limited to the following businesses: amusement establishments, animal clinics or hospitals, automobile service stations, automobile dealerships for new or used vehicles, automobile car washes, automobile and vehicular repair shops, banking establishments, beauty and barber shops, bowling alleys, bus terminals, and repair shops, camera shops, dental offices or clinics, day care centers, department stores, drug stores, funeral homes, furniture stores, gift shops, grocery stores, hardware stores, hotels, jewelry stores, laboratories, laundries, and dry cleaning establishments, liquor stores, medical offices and clinics, motels, movie theaters, office buildings, paint stores or shops, parking lots, produce markets, professional offices, radio stations, repair establishments, retail stores, television stations and production facilities, theaters, truck or construction equipment service stations, truck or construction equipment dealerships for new or used vehicles, truck or construction equipment washing facilities and truck or construction equipment repair shops.

(13) "Commencement of construction" The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

(14) "Common plan of development or sale" broadly means any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas.

(15) "Compliance inspection" means an inspection of a construction activity for the purpose of determining the adherence to and effectiveness of approved BMPs.

(16) "Construction activity" shall mean any clearing, grading, excavating, or equipment usage that will result in the disturbance of the land surface and is subject to storm water permit requirements under the State of Tennessee general permit for storm water discharges associated with construction activity. The term shall not include:

(a) Such minor construction activities as home gardens and individual home landscaping, home repairs, home maintenance work and other related activities that result in minor soil erosion;

(b) Individual service and sewer connections for single or two family residences;

(c) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pasture land, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices and the construction of farm buildings;

(d) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

(e) Installation, maintenance, and repair of any underground public utility lines when such activity occurs in an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced and a street, curb, gutter or sidewalk permit has been obtained, and if such area is less than one (1) acre of disturbance;

(17) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(18) "Design storm event" means a hypothetical storm event of a given frequency interval and duration, used in the analysis and design of a storm water facility. The estimated design rainfall amounts, for any return period interval (i.e., 2-yr, 5-yr, 25-yr, etc.) in terms of either twenty-four (24) hour depths or intensities for any duration, can be found by accessing the NOAA National Weather Service Atlas 14 data for Tennessee.

(19) "Development" means any activity subject to the State of Tennessee General NPDES Permit for Discharge of Storm water Associated with Construction Activities (TNCGP).

(20) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(21) "Discharge of a pollutant, discharge of pollutants" and "discharge," when used without qualification, each refer to the addition of pollutants to waters from a source. This definition includes additions of pollutants into waters of the state from: surface runoff, which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person, which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into the municipal separate storm sewer system.

(22) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

(23) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.

(24) "Erosion Prevention and Sediment Control plan (EPSC plan)" means a written plan (including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.

(25) "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water. The following land uses and activities are deemed storm water hot spots, but that term is not limited to only these land uses:

(a) vehicle salvage yards and recycling facilities

(b) vehicle service and maintenance facilities

(c) vehicle and equipment cleaning facilities

(d) fleet storage areas (bus, truck, etc.)

(e) industrial sites (included on Standard Industrial Classification code list)

(f) public works storage areas

(g) facilities that generate or store hazardous waste materials

(h) commercial container nursery

(i) restaurants and food service facilities

(j) other land uses and activities as designated by an appropriate review authority

(26) "Illicit connection" means illegal and/or unauthorized connections to the MS4 whether or not such connections result in discharges into the system.

(27) "Illicit discharge" means any discharge to the MS4 that is not entirely composed of storm water, except discharges authorized under a NPDES permit (other than the NPDES permit for discharges from the MS4), discharges resulting from firefighting activities (40 CFR § 122.26(b)(2)) and allowable discharges listed in §14-306.

(28) "Impervious" means not allowing the passage of water through the surface of the ground or ground covering or a substantial reduction in the capacity for water to pass through the surface of the ground or ground covering.

(29) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(30) "Maintenance" means any activity that is necessary, including but not limited to reconstruction and property maintenance, to keep a storm water facility in good working order so as to function as designed.

(31) "Maintenance agreement" means a document recorded in the Shelby County Register's Office that acts as a property deed restriction, and which provides for long-term maintenance of storm water management facilities.

(32) "Manager" means the Mayor's designee who is designated to supervise the operation of the storm water management program and who is charged with certain duties and responsibilities by this chapter, or his/her duly authorized representative.

(33) "Memphis and Shelby County Drainage Design Manual (MSCDDM)" means the guidance document adopted for use by Shelby County to provide the technical standards and information necessary for proper design and construction of storm water management facilities and the management of storm water management infrastructure.

(34) "Municipal inspector" means an employee of the town that has successfully completed the Tennessee Erosion Prevention and Sediment Control Level 1 course or recertification course and whose duties include the inspection of construction activities.

(35) "Municipal Separate Storm Sewer System" or "MS4" means a conveyance or system of conveyances (including roads and streets with their drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains);

(a) Owned and operated by the town;

(b) Designed or used for collecting or conveying storm water;

(c) Which is not a combined sewer; and

(d) Which is not part of a publicly owned treatment works as defined at 40 CFR §122.2.

(36) "National Pollutant Discharge Elimination System" or "NPDES permit" means a permit issued pursuant to 33 U.S.C. chapter 26 Water Pollution Prevention and Control, subchapter IV Permits and Licenses, § 1342.

(37) "Notice of Coverage or NOC" means a written approval from TDEC authorizing site operators to discharge storm water associated with construction activities in accordance with the effective TNCGP.

(38) "Notice of Intent or NOI" means a written request to TDEC by site operators for authorization to discharge storm water associated with construction activities in accordance with the effective TNCGP.

(39) "Notice of Termination or NOT " means a written notice issued by TDEC that coverage under the construction general permit is terminated due to completion of the project, cessation of land disturbing activities, and final stabilization of all disturbed areas.

(40) "Off-site storm water facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(41) "On-site storm water facility" means a structural BMP located within the subject property boundary described in the permit application for land development.

(42) "Operator" for the purpose of this ordinance and in the context of storm water associated with construction activity, means any person associated with a construction project that meets either of the following two (2) criteria:

(a) This person has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project, and is considered the primary permittee; or

(b) This person has day-to-day operational control of those activities at a project, which are necessary to ensure compliance with a SWPPP for the site or other permit conditions. This person is typically a contractor or a commercial builder who is hired by the primary permittee, and is considered a secondary permittee.

It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of "operator."

(43) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(44) "Person" means any individual, partnership, co-partnership, firm, 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 context.

(45) "Pollution" means any human-made or human-induced change in the chemical, physical or biological and radiological integrity of water.

(46) "Regional facility" means a storm water management facility designed to serve more than two (2) properties.

(47) "Redevelopment" means any development subject to the Tennessee general permit for construction activities.

(48) "Routine inspection" means the normal visits of municipal inspectors to construction activities for the purpose of monitoring the construction process.

(49) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the MS4.

(50) "Sediment" means solid material, both inorganic and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice as a product of erosion.

(51) "Sedimentation" means the action or process of forming or depositing sediment.

(52) "Significant spills" releases of oil or hazardous substances in excess of reportable quantities under § 311 of the Clean Water Act (at 40 CFR 110.10 and CFR 117.21) or § 102 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), (at CFR 302.4).

(53) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(54) "Storm water" refers to water induced or created from precipitation whether rain, snow or ice and either stored, collected, detained, absorbed, or discharged.

(55) "Storm water entity or entities" means the entity or entities designated by the town to administer the storm water management ordinance, and other storm water rules and regulations adopted by the town.

(56) "Storm water management facility" means a storm water management control device, structure, or system of such physical components designed to treat, detain, store, convey, absorb, conserve, protect, or otherwise control storm water.

(57) "Storm water management" means the collection, conveyance, storage, treatment and disposal of storm water in a manner to meet the objectives of this chapter and its terms, including, but not be limited to measures that control the increase volume and rate of storm water runoff and water quality impacts caused or induced by man made changes to the land.

(58) "Storm water management plan" or "SWMP" means the set of drawings and other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques for the Town of Arlington and as part of this chapter.

(59) "Storm water pollution prevention plan" or "SWPPP" means a written site specific plan to eliminate or reduce and control the pollution of storm water through designed facilities, natural or constructed, and best management practices (BMPs).

(60) "Storm water runoff " means storm water flow on the surface of the ground.

(61) "Storm sewer system" means the network of conveyances and storage facilities that collect, detain, absorb, treat, channel, discharge, or otherwise control the quantity and/or quality of storm water.

(62) "Stream" means any river, creek, slough or natural water course in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some parts of the bed have been dredged or improved does not prevent the water course from being a stream. For the purposes of this ordinance, a stream is not a "wet weather conveyance" as also defined herein. Typically, as a guideline, perennial streams are identified on USGS maps by solid blue lines and intermittent streams are depicted by dashed blue lines.

(63) "Structural BMPs" means facilities that are constructed to provide control of storm water runoff.

(64) "Surface water" means waters on the surface of the earth in bounds created naturally or artificially including, by way of example and not limited to, streams, other water courses, lakes and reservoirs.

(65) "Variance" means the modification of the minimum storm water management requirements contained in this chapter and the storm water management plan for specific circumstances where strict adherence of the requirement would result in unnecessary hardship and not fulfill the intent of this chapter.

(66) "Water quality buffer." See "buffer zone."

(67) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(68) "Water quality" means characteristics that are related to the physical, chemical, biological, and/or radiological integrity of storm water.

(69) "Waters of the state" means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in a single ownership which does not combine or effect a junction with natural surface or underground waters.

(70) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.

(71) "Waterway buffer." See "buffer zone."

(72) "Wetland(s)" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, and similar areas.

(73) "Wet weather conveyance" is defined in Rule 0400-40-03 of the Rules of the Tennessee Department of Environment and Conservation. Wet weather conveyances are man-made or natural water courses, including natural

water courses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality, the channels of which are above the groundwater table and which do not support fish or aquatic life and are not suitable for drinking water supplies. Rule 0400-40-03-.02(6) requires that waters designated as wet weather conveyances shall be protective of wildlife and humans that may come in contact with them and maintain standards applicable to all downstream waters. No other use classification or water quality criteria apply to these waters. (Ord. #2004-16, Jan. 2005, as replaced by Ord. #2015-05, June 2015)

14-305. Abbreviations. (1) BMP – Best Management Practice.

(2) ARAP – Aquatic Resource Alteration Permit.

(3) CERCLA – means the Comprehensive Environmental Response, Compensation and Liability Act in its original form or as amended.

(4) CFR – Code of Federal Regulations.

(5) CWA – Clean Water Act.

(6) FEMA – Federal Emergency Management Agency.

(7) MS4 – Municipal Separate Storm Sewer System means the Town of Arlington separate storm water system both natural and manmade as may be subject to the NPDES Storm Water Permit for the Town of Arlington.

(8) NOC – Notice of Coverage.

(9) NOI – Notice of Intent.

(10) NOT – Notice of Termination.

(11) MSCDDM – Memphis and Shelby County Drainage Design Manual.

(12) SWMP – Storm Water Management Plan.

(13) SWPPP – Storm Water Pollution Prevention Plan.

(14) TCA – Tennessee Code Annotated (latest version).

(15) TNCGP – Tennessee Construction General Permit (latest version), which is incorporated by reference in this ordinance as if fully set herein.

(16) TMSP – Tennessee Multi-Sector Permit (TMSP) for Storm Water Discharges Associated with Industrial Activity (see section 30-135), which is incorporated by reference in this ordinance as if fully set herein.

(17) USACOE – means United States Army Corps of Engineers

(18) U.S.C. – means United States Code (Ord. #2004-16, Jan. 2005, as replaced by Ord. #2015-05, June 2015)

14-306. Illicit discharges. This section shall apply to all water generated on developed or undeveloped land entering the MS4.

(1) Unauthorized discharge a public nuisance. Discharge of storm water in any manner in violation of this chapter; or any violation of any condition of a permit issued pursuant to this chapter; or any violation of any condition of a storm water discharge permit issued by the State of Tennessee

Department of Environment and Conservation is hereby declared a public nuisance and shall be corrected or abated.

(2) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) Improper disposal and illicit discharges. (a) It shall be unlawful for any person to improperly dispose any contaminant into the Town of Arlington MS4. Contaminants include, but are not limited to the following:

(i) Trash or debris;

(ii) Construction materials;

(iii) Petroleum products including but not limited to oil. gasoline, grease, fuel oil, or hydraulic fluids;

(iv) Antifreeze and other automotive products;

(v) Metals in either particulate or dissolved form;

(vi) Flammable or explosive materials;

(vii) Radioactive material;

(viii) Batteries, including but not limited to, lead acid automobile batteries, alkaline batteries, lithium batteries, or mercury batteries;

(ix) Acids, alkalis, or bases;

(x) Paints, stains, resins, lacquers, or varnishes;

(xi) Degreasers and/or solvents;

(xii) Drain cleaners;

(xiii) Pesticides, herbicides, or fertilizers;

(xiv) Steam cleaning wastes;

(xv) Soaps, detergents, or ammonia;

(xvi) Swimming pool backwash including chlorinated swimming pool discharge;

(xvii) Chlorine, bromine, and other disinfectants;

(xviii) Heated water;

(xix) Animal waste from commercial animal or feeder lot;

(xx) Any industrial and sanitary wastewater, including leaking sewers or connections;

(xxi) Recreational vehicle waste;

(xxii) Animal carcasses;

(xxiii) Food wastes;

(xxiv) Medical wastes;

(xxv) Collected lawn clippings, leaves, branches, bark, and other fibrous materials;

(xxvi) Collected silt, sediment, or gravel;

(xxvii) Dyes, except as stated in subsection (B);

(xxviii) Chemicals, not normally found in uncontaminated water;

(xxix) Any hazardous material or waste, not listed above;

(xxx) Washing of fresh concrete for cleaning and/or finishing purposes or to expose aggregates;

(xxxi) Junk motor vehicles, as defined in subsection (c);

(xxxii) Liquid from solid waste disposal containers.

(xxxiii) Domestic animal waste

Penalties for minor discharges that have no significant adverse impact on safety, health, the welfare of the environment, or the functionality of the town's storm water collection system may be waived at the discretion of the Manager.

(b) Dye testing. Dye testing is allowed but requires verbal notification to the Manager a minimum of twenty-four (24) hours prior to the date of the test. The Town of Arlington governmental agencies are exempt from this requirement.

(c) Junk motor vehicles, definition thereof. "Junk motor vehicle" means any vehicle, which shall include by way of example but not be limited to the following vehicle types: automobiles, construction equipment, motorcycles, and trucks, which meets all of the following requirements:

(i) Is three (3) years old or older;

(ii) Is extensively damaged, such damage including, but not limited to any of the following: A broken window or windshield or missing wheels, engine or transmission;

(iii) Is apparently inoperable;

(iv) Is without a valid current registration;

(v) Has a fair market value equivalent only to the value of the scrap in it.

(4) Exceptions, allowable discharges. The following types of discharges shall not be considered prohibited discharges for the purpose of this chapter unless the Manager determined that the type or quantity of discharge, whether singly or in combination with others, is causing significant contamination of the Town of Arlington MS4.

(a) Uncontaminated discharges from the following sources;

(i) Water line flushing or other potable water sources;

(ii) Landscape irrigation or lawn watering with potable water;

(iii) Diverted stream flows;

(iv) Rising ground water;

(v) Groundwater infiltration to storm drains;

(vi) Pumped groundwater;

(vii) Foundation or footing drains;

(viii) Crawl space pumps;

(ix) Air conditioning condensation;

(x) Springs;

(xi) Non-commercial washing of vehicles;

(xii) Natural riparian habitat or wetland flows;

(xiii) Swimming pools (if dechlorinated - typically less than one PPM chlorine);

(xiv) Firefighting activities;

(xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the Town as being necessary to protect public health and safety.

(c) Dye testing as permitted in section (3)(b) above.

(d) Discharges authorized by the Construction General Permit (CGP):

(i) Dewatering of work areas of collected storm water and ground water (filtering or chemical treatment may be necessary prior to discharge);

(ii) Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves site;

(iii) Water used to control dust in accordance with the CGP;

(iv) Potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;

(v) Routine external building washdown that does not use detergents or other chemicals;

(vi) Uncontaminated groundwater or spring water; and foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

(5) Illicit connection, defined. Any connection, existing or future, identified by the Manager, as that which could convey anything not composed entirely of storm water directly to the Town of Arlington MS4 is considered an illicit connection and is prohibited with the following exceptions:

(a) Connections conveying allowable discharges as defined in § 14-306(4);

(b) Connections conveying discharges pursuant to an NPDES permit (other than an NPDES storm water permit).

(6) Monitoring and inspection. (a) Monitoring. The manager shall periodically monitor compliance of the storm water NPDES permit holder.

(b) Detection of illicit connections and improper disposal. The Manager shall take appropriate steps to detect and eliminate illicit connections to the Town of Arlington MS4, including the adoption of programs to identify illicit discharges and their source or sources and provide for public education, public information and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.

(c) Inspections. (i) The manager or his designee, bearing proper credentials and identification, may enter and inspect properties for inspections, investigations, monitoring, observation, measurement, enforcement, sampling and testing, to effectuate the provisions of this chapter, the storm water management plan, and/or the NPDES storm water permit. The manager or his designee shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.

(ii) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas wherein no objection is raised. The inspector shall immediately report the refusal and the circumstances to the manager. The manager may seek appropriate action.

(iii) In the event the manager or his designee reasonably believes that discharges into the Town of Arlington MS4 may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon request by the owner or representative.

(iv) At any time during the conduct of an inspection or at such other times as the manager or his designee may request information from an owner or representative, the owner or representative may identify areas of the facility or establishment, material or processes which contains or may contain a trade secret. If the manager or his designee has no clear and convincing reason to question such identification, the inspection report shall note that trade secret information has been omitted. To the extent practicable, the manager shall, protect all information that is designated as a trade secret by the owner or their representative.

(7) Reduction of storm water pollutants by use of BMPs. Any person responsible for a property or premises which is or may be the source of an illicit discharge, may be required to implement, at that persons expense, the BMPs necessary to prevent further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the

discharge of storm water from an industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

(8) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into the MS4, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via 911. In the event of a release of non-hazardous materials, the person shall notify the Manager in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Manager within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an onsite written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five (5) years.

(9) Illegal dumping. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the town. (Ord. #2004-16, Jan. 2005, as replaced by Ord. #2015-05, June 2015)

14-307. Construction and permanent storm water management design and construction. (1) MS4 storm water design and BMP manuals. The town adopts as its MS4 design and BMP manuals for construction and permanent storm water management the following publications, which are incorporated by reference in this ordinance as if fully set herein. The manuals include a list of acceptable BMPs including specific design performance criteria and operation and maintenance requirements for each storm water practice. The manuals may be updated and expanded from time to time at the discretion of the board of mayor and aldermen, upon the recommendation of the manager based on improvements in engineering, science, monitoring, local maintenance experience, or changes in federal or state laws or regulation. Designers and engineers are encouraged to use new and innovative techniques that perform to at least the minimum standards contained in the manuals. The specific application of BMP practices is subject to approval of the manager. Storm water facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(a) TDEC Erosion Prevention and Sediment Control Handbook.

(b) Shelby County Watershed Management Practices Manual.

(c) City of Memphis/Shelby County Storm Water Management Manual.

(d) Town of Arlington Watershed Management Practices Manual.

(e) Town of Arlington Public Works Standard Specifications and Drawings.

(2) Land development. All land development in the town including, by example but not limited to, site plan applications, subdivision applications, land disturbance applications and grading applications for new development or redevelopment construction activities shall be subject to the provisions of this chapter, the town's floodplain portion of the zoning ordinance, and the subdivision regulations. Other projects may be required to obtain authorization under this ordinance if:

(a) The manager has determined that storm water discharge from a site is causing, contributing to, or is likely to contribute to a violation of state water quality standards;

(b) The manager has determined that the storm water discharge is, or is likely to be, a significant contributor of pollutants to waters of the state; or

(c) Changes in state or federal rules require sites of less than one (1) acre that are not part of a larger common plan of development or sale to obtain a storm water permit.

(d) Any new development or redevelopment, regardless of size, that is defined by the town to be a hotspot land use.

(3) NOI. The operators of non-exempt construction activities shall apply to TDEC for coverage under the TNCGP as part of the town's plan review and approval process. Application procedures and required information for submittal of the NOI is contained in the TNCGP. An individual permit may be required as specified in section 7 of the TNCGP as well as an Aquatic Resource Alteration Permit (ARAP) as specified in section 10 of the TNCGP.

(4) SWPPP. The operators of non-exempt construction activities shall provide a copy of the construction activity SWPPP for review as part of the town's plan review and approval process. The TNCGP specifies what information is required to be included in the SWPPP. Changes to the SWPPP after plan review and approval shall be submitted to the Manager for approval. Operators of non-exempt construction activities involving the building of family residential units shall submit a copy of the SWPPP to the public works department.

(5) NOC and NOT. The operators of non-exempt construction activities shall provide a copy of the Notice of Coverage (NOC) issued by TDEC prior to the commencement of any construction activity on the site. Upon completion of the project and acceptance by TDEC, a Notice of Termination (NOT) is issued. The operator shall submit a signed copy of the NOT to the town.

(6) Erosion control phasing plan. An erosion control phasing plan describing the vegetative stabilization and management techniques to be used at a site during and after construction is completed shall be submitted with the final design as part of the town's plan review and approval process. This plan shall explain not only how the site will be stabilized after construction, but also who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. Changes to the erosion control phasing plan after plan review and approval shall be submitted to the manager for approval.

(7) General design performance criteria for permanent storm water management. The storm water discharges from new development and redevelopment sites are to be managed such that post-development peak discharge does not exceed the predevelopment peak discharge at the site unless approved by the manager.

(a) All new development is required to discharge post development flows at the 2-, 10-, and 25-year storm events at a peak level of pre-existing conditions. The manager may require post development flows at other intervals. Discharge for water quality is encouraged to be designed into the project to include green infrastructure or other flow inhibiting designs.

(8) Detention requirements. All developments will be designed to incorporate detention with a storage volume sized for the 25-year storm and over-topping of a 100-year storm. Peak rate outflow control structure will meet the pre-development 2-, 10-, and 25-year storms.

(9) Permanent Storm Water Management Plan (SWMP) requirements. The operators of non-exempt construction activities shall submit a SWMP for post construction permanent BMPs as part of the town's plan review and approval process. The SWMP shall include sufficient information to allow the Manager to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development on the site (both present and future) on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. The operator may use the SWPPP as the SWMP provided the following information is included:

(a) A topographical base map of the site, which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wet lands and the type, size elevation etc., of the nearest upstream and downstream drainage structures and/or storm water management facilities;

(ii) Current land use including all existing structures, locations of utilities, roads and easements;

(iii) All other existing significant natural and artificial features;

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; and the limits of clearing and grading.

(b) Proposed structural and non-structural BMPs;

(c) A written description of the site plan and justification of proposed changes in natural conditions may also be required;

(d) Hydrologic and hydraulic calculations for the pre-development and post-development conditions for a 2-, 10-, 25-, and 100-year design storm. These calculations must show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with this ordinance. Such calculations shall include:

(i) A description of the design storm frequency, duration, and intensity where applicable;

(ii) Time of concentration;

(iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;

(iv) Peak runoff rates and total runoff volumes for each watershed area;

(v) Infiltration rates, where applicable;

(vi) Culvert, storm water sewer, ditch and/or other storm water conveyance capacities;

(vii) Flow velocities;

(viii) Data on the increase in rate and volume of runoff for a design storm; and

(ix) Documentation of sources for all computations methods and field test results.

(e) A soils report if a storm water management control measure depends on the hydrologic properties of soils (e.g, infiltration basins). The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(f) Detailed maintenance and repair procedures for permanent storm water management facilities.

Changes to post-construction permanent BMPs after plan review and approval shall be submitted to the manager for approval.

(10) Maintenance and repair plan. The design and planning of all permanent storm water management facilities shall include detailed maintenance and repair procedures to ensure their continued performance.

These plans shall identify the parts or components of a storm water management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. Approved maintenance and repair plans shall be recorded in the Shelby County Register's Office and shall act as a property deed restriction to ensure maintenance and repair responsibilities are carried out in perpetuity.

(11) Construction plans. Proposed plans for construction shall be stamped by a professional engineer licensed in the State of Tennessee and submitted as part of the town's plan review and approval process. The plans shall include all proposed improvements or modifications to the existing or new storm water infrastructure, erosion prevention and sediment control practices and other related improvements or modifications.

(a) The town encourages regional watershed management practices and facilities. These practices will be encouraged in order to replace or reduce the implementation of on-site storm water management facilities.

(b) Each individual project shall be evaluated for consistency with the adopted watershed master plan, when available, for the major watershed or watersheds within which the project site is located. The individual project evaluation will determine if proposed storm water management practices can adequately serve the property and limit impacts to downstream public and private properties. The presence of a regional facility(s) will be considered in determining the extent to which peak discharge and/or quality controls will be necessary.

(c) In the absence of such a storm water master plan, a system of uniform requirements shall be applied to each individual project site. In general, these uniform requirements may be based on the criteria that storm water discharges from new development and redevelopment sites are to be managed such that post-development peak discharge does not exceed the pre-development peak discharge at the site.

(d) Minimum development may be permitted in the floodplain; however, the developer may be required by the Manager to demonstrate “no adverse impact” on upstream or downstream facilities, uses, residences, or related structures. If substantial fill alteration is required, the Manager may require a "no rise" certification.

(e) Under no circumstances shall a site be graded or drained in such a way as to increase surface runoff to sinkholes, dry wells, or drainage wells.

(f) Development of properties containing existing on-site storm water management facilities may be permitted, at the discretion of the Manager, provided the property and downstream public and private

properties, infrastructure or waters of the state are adequately protected from adverse storm water impacts.

(g) Soil bioengineering, green and other soft slope and stream bank stabilization methods are encouraged. The use of greenway right-of-way for appropriate properties is encouraged along all waters of the state.

(h) The town shall require the set aside of land along all waters of the state as land development occurs. A permanent waterway buffer shall be applied as specified in Appendix A.[1]

(12) Construction activities. It shall be unlawful for any person to permit any discharge of storm water from a construction activity as defined in § 14-304 without a TNCGP or an individual NPDES permit. Erosion or sedimentation, or transport of other pollutants or forms of pollution, due to various land development activities must be controlled. All construction activities shall be in compliance with applicable permit requirements, federal, state and/or local, and all applicable requirements under this chapter. Additionally:

(a) No earth disturbing activities shall be performed at a construction activity until:

(i) A NOC has been received from TDEC. A copy of the NOC shall be provided to the manager;

(ii) All appropriate permits have been obtained;

(iii) Construction plans have been approved by the town;

(iv) Appropriate erosion prevention and sediment control BMPs, consistent with those described in the BMP manuals referenced in § 14-307(1) and identified in the site's approved SWPPP, are in place; and

(v) A pre-construction meeting has been conducted.

(b) Operators shall control wastes such as but not limited to discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site to avoid adverse impacts on water quality;

(c) The manager may stop or cause to have stopped construction or administer other enforcement actions as defined in this chapter on properties that do not have adequate erosion prevention and sedimentation control measures in place or properly maintained.

(d) In activities that have been released from the development phase to the building phase, any changes in the development phase grading of more than two feet (2') (cut or fill) shall require a lot specific grading and drainage plan to show how the owner plans to accommodate drainage to or from adjacent lots. The manager is empowered to stop or

---

[1]Appendix A is available in the office of the town recorder.

cause to be stopped any work on the lot until such time as a grading and drainage plan is submitted and approved by the manager.

(e) After construction activities are complete, operators obtaining coverage under the TNCGP or an individual NPDES permit shall submit a Notice of Termination (NOT) to TDEC as specified in section 8 of the TNCGP. The Manager is hereby empowered to retain or cause to be retained bonds, letters of credits, withholding of use and occupancy permits or other sureties as the manager deems appropriate until NOT acceptance by TDEC. Operators shall provide a copy of the approved NOT to the Manager. (Ord. #2004-16, Jan. 2005, as replaced by Ord. #2015-05, June 2015)

14-308. Operation, maintenance and inspection of permanent storm water management facilities. (1) As-built plans. All operators shall submit as-built plans for all permanent storm water management structures after final construction is completed to the town engineer. The plans must show the final flow line elevations, slopes, locations and/or design specifications for all storm water management facilities, as applicable for the facility, and must bear the seal of a registered professional engineer licensed to practice in the State of Tennessee. The registered professional shall certify that the facilities have been constructed in substantial and essential conformance to the design plan. The manager is hereby empowered to retain or cause to be retained bonds, letters of credits, withholding of use and occupancy permits or other sureties as the Manager deems appropriate until proper as-built plans have been delivered.

(2) Erosion control phasing plan and stabilization requirements. Any area of land from which the natural vegetative cover has been either partially or wholly cleared by a construction activity shall be stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased.

(a) Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than fifteen (15) days after the construction activity in that portion of the site has temporarily or permanently ceased. Natural or created slopes three to one (3 to 1) or steeper shall be temporarily stabilized not later than seven (7) days after construction activity on the slope has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(i) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(ii) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed

within fifteen (15) days or seven (7) days for slopes three to one (3 to 1) or steeper.

(b) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface. Slopes three to one (3 to 1) or steeper shall be solid sodded.

(c) The following criteria shall apply to re-vegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of re-vegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following re-vegetation. Re-vegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but also who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Right of access. The owner(s) shall maintain a perpetual right of access for inspection and emergency access by the town. The town has the right, but not the duty, to enter premises for inspection and emergency repairs.

(4) Inspection of storm water management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in § 14-308.

(5) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation of the storm water facility, and of all maintenance and repairs to the facility, and shall retain the records for at

least five (5) years. These records shall be made available to the town during inspection of the facility and at other reasonable times upon request.

(6) Infrastructure maintenance. It shall be the responsibility of the property owner of record for the maintenance of storm water infrastructure. Maintenance of storm water infrastructure consists of a minimum but is not limited to the following items as they apply to the specific storm water facility: outlet cleaning, mowing, herbicide spraying, litter control, removal of sediment from basin and outlet structures, repair of drainage structures, and other items that may be included in the facilities maintenance and repair plan. All such activities will be conducted in an environmentally sound manner and consistent with applicable codes, rules, and/or standards. No modifications shall be made to open ditches or other wet weather conveyances without coordination with the Manager. All storm water management control facilities proposed by the owners and approved by the manager for dedication as a public facility shall be maintained by the owner until such time as the manager accepts the facilities. Upon acceptance, the facilities shall be publicly owned and/or maintained.

(7) Maintenance documents. Maintenance requirements for new privately owned permanent, storm water management facilities may also be prescribed by a site specific document between the owner or operator and the town. This document shall be based on an approved site design, a SWPPP, an inspection program, a long-term maintenance plan, an emergency repair plan, easements, and proof or surety of financial responsibility. Approved maintenance documents shall be recorded in the Shelby County Register's office and shall act as a property deed restriction to ensure maintenance and repair responsibilities are carried out in perpetuity.

(8) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for storm water facilities under this chapter, the town, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the storm water management facility becomes a danger to public safety or public health, the town shall notify in writing the party responsible for maintenance of the storm water management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the town may take necessary corrective action. The cost of any action by the town under this section shall be charged to the responsible party. Additionally, the manager may assess penalties as detailed in § 14-311. Such an assessment will be used for cost recovery, to abate damages, and to restore impacted areas. (as added by Ord. #2015-05, June 2015)

14-309. Maintenance agreement for storm water management facilities. (1) On-site storm water management facilities maintenance

document. For new construction where the storm water facility is located on property that is subject subdivision or site plan review, and the plans provide for a permanent storm water maintenance document that runs with the land, the owners of property must execute a document that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities. The document shall:

(a) Assign responsibility for the maintenance and repair of the storm water facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(b) Provide for a periodic inspection by the property owners in accordance with the requirements of subsection (c) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the town. It shall also grant permission to the town to enter the property at reasonable times and to inspect the storm water facility to ensure that it is being properly maintained.

(c) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other storm water facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manuals and the approved maintenance and repair plan as appropriate.

(d) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the manager.

(e) Provide that if the property is not maintained or repaired within the prescribed schedule, the town shall perform the maintenance and repair at its expense, and bill the same to the development owner. The maintenance document shall also provide that the town's cost of performing the maintenance shall be a lien against each lot in the development.

(2) Existing locations with no maintenance document. The town may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-storm water discharges, and to establish inspection programs to verify that all storm water management facilities are functioning within design limits.

(a) Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the town's NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws.

(b) Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(c) The manager shall, in writing, notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(3) Requirements for all existing locations and ongoing developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered in a manner and on a schedule acceptable to the manager.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Storm water runoff shall be controlled to the maximum extent practicable to prevent its pollution. Such control measures may include, but are not limited to, the following:

(i) Ponds such as detention ponds, extended detention ponds, retention ponds and other alternate storage methods.

(ii) Constructed wetlands.

(iii) Infiltration systems such as infiltration/percolation trenches, infiltration basins, drainage (recharge) wells, and porous pavements.

(iv) Filtering systems such as catch basin inserts/media filters, sand filters, filter/absorption beds, and filter and buffer strips.

(v) Open channel such as swales and bio-swales.

(4) Owner/operator inspections. The owners and/or the operators of storm water management practices shall:

(a) Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The town may require submittal of this documentation.

(b) Perform comprehensive inspection of all storm water management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five (5) year inspections shall include:

(i) Facility type,

(ii) Inspection date,

(iii) Latitude and longitude and nearest street address,

(iv) BMP owner information (e.g. name, address, phone number, fax, and email),

(v) A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,

(vi) Photographic documentation of BMP's, and

(vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.

(c) Owners or operators shall maintain documentation of these inspections. The town may require submittal of this documentation.

(5) Corrections of problems subject to appeal. Corrective measures imposed by the manager under this section are subject to appeal under § 14-312 of this chapter. (as added by Ord. #2015-05, June 2015)

14-310. Storm water discharges from regulated industrial sources. (1) Purpose. It is the purpose of this chapter to control storm water runoff from industrial sources in order to minimize, to the maximum extent practicable, pollutants discharged from industrial sources into the Town of Arlington MS4. This reduction may be achieved by a combination of management practices, control techniques, system design, engineering methods and plan review.

(2) Industry defined. An industrial facility is one defined as industry by EPA rule, or subject to the Tennessee Multi-Sector Permit (TMSP) for storm water discharges associated with industrial activity.

(3) Right of inspection, defined. Right of inspection is defined in § 14-306(6) of this chapter.

(4) Information required. The State of Tennessee utilizes a "notice of intent" for dischargers to obtain coverage under the general permit program for discharges associated with industrial activities. These documents are subject to change and amendment and therefore the user should obtain the latest versions directly from the State of Tennessee Department of Environment and Conservation, Division of Water Pollution Control. These may be obtained at the state's web site. All industries subject to the TMSP and discharging into the Town of Arlington storm sewer system shall maintain a copy of the Storm Water Pollution Prevention Plan (SWPPP) on the industrial site, available for inspection and copying at reasonable times by the manager.

(5) Storm Water Pollution Prevention Plan (SWPPP) requirements. The Storm Water Pollution Prevention Plan (SWPPP) must follow, at a minimum, the outline of the plan listed in the Tennessee Multi-Sector Permit language or a facility's NPDES storm water permit language, whichever is applicable.

(6) Sampling at industrial facilities. (a) Samples of storm water collected for compliance monitoring shall be representative of the discharge. Sampling locations will be those defined in the Tennessee multi-sector permit or an NPDES permit. Sampling and analyses shall be in accordance with 40 CFR part 122.21 and 40 CFR part 136 and/or applicable permit language.

(b) Samples that may be taken by the manager and/or his designated representatives for the purpose of determining compliance with the requirements of this chapter or rules adopted hereunder may be split with the discharger if requested before the time of sampling.

(c) The manager may require a storm water discharger to install and maintain at the discharger's expense a suitable manhole or sampling facility at the discharger's facility or suitable monitoring access to allow observation, sampling, and measurement of all storm water runoff being discharged into the county storm sewer system. Sampling manhole or access shall be constructed in accordance with plans approved by the manager and shall be designed so that flow measurement and sampling equipment can be installed. Access to the manhole or monitoring access shall he available to the manager and/or his designated representatives at all times.

(7) Reporting. (a) Any facility required to sample under either the TMSP or an NPDES storm water permit shall provide a copy of the monitoring report to the manager.

(b) The manager may require reporting by dischargers of storm water runoff to the storm water system, where an NPDES storm water permit is not required, to provide information. This information may include any data necessary to characterize the storm water discharge.

(8) Accidental discharges. (a) In the event of a "significant spill" as defined in "definitions" or any other discharge which could constitute a threat to human health or the environment, the owner or operator of the facility shall give notice to the manager and the local field office of the Tennessee Department of Environment and Conservation as required by state and federal law following the accidental discharge.

(b) If an emergency response by governmental agencies is needed, the owner or operator should also call the Memphis and Shelby County Emergency Management Agency, immediately to report the discharge. A written report must be provided to the manager within five (5) days of the time the discharger becomes aware of the circumstances, unless this requirement is waived by the manager for good cause shown on a case-by-case basis, containing the following particulars:

(i) A description of the discharge, including an estimate of volume.

(ii) The exact dates, times and duration of the discharge.

(iii) Steps being taken to eliminate and prevent recurrence of the discharge, including any planned modification to contingency, SWPPP or maintenance plans.

(iv) A site drawing should be rendered that shows the location of the spill on the impacted property, the direction of flow of the spill in regards to the topographical grade of the property, the impacted watercourse(s), and the property or properties adjacent to the spill site.

(c) The discharger shall take all reasonable steps to minimize any adverse impact to the Town of Arlington MS4, including such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge. The interruption of business operations of the discharger shall not be a defense in an enforcement action necessary to maintain water quality and minimize any adverse impact that the discharge may cause.

(d) It shall be unlawful for any entity, whether an individual, residential, commercial or industrial entity to fail to comply with the provisions of this section.

(9) Fraud and false statements. Any reports required by this chapter or rules adopted hereunder and any other documents required by the town to be submitted or maintained by the discharger shall be signed by a responsible corporate official and certified as accurate to the best of their personal knowledge after appropriate investigation. It shall be subject to the enforcement provisions of this chapter and any other applicable local and state laws and

regulations pertaining to fraud and false statements. Additionally, the discharger shall be subject to the provisions of 18 U.S. Code § 309 of the Clean Water Act, as amended, governing false statements and responsible corporate officials. (as added by Ord. #2015-05, June 2015)

14-311. Enforcement and abatement. Whenever the manager finds any permittee or person discharging storm water, or other pollutants into the MS4 or otherwise has violated or is violating this chapter, conditions of a storm water permit, or order issued hereunder, the manager may use enforcement response and abatement actions specified herein to achieve compliance. Although enforcement and abatement actions should be progressively applied until compliance is achieved, enforcement actions may be administered in any sequence as the Manager deems appropriate for the violation. If the manager deems it necessary, a complaint may be filed with the commissioner of TDEC pursuant to Tennessee Code Annotated, § 69-3-118.

(1) Enforcement authority. The town shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Measures authorized include:

(a) Verbal warnings - At minimum, verbal warnings must specify the nature of the violation and required corrective action.

(b) Written notices - Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.

(c) Citations with administrative penalties - The MS4 has the authority to assess monetary penalties, which may include civil and administrative penalties.

(d) Stop work orders - Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.

(e) Withholding of plan approvals or other authorizations - Where a facility is in noncompliance, the MS4's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.

(f) Additional measures - The MS4 may also use other escalated measures provided under local legal authorities. The MS4 may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

(2) Administrative remedies. The enforcement remedies enumerated herein shall be applicable to all sections of this chapter.

(a) Verbal warnings. Municipal inspectors are hereby empowered to administer verbal warnings, of which shall be considered

as being the same as issued by the manager. A verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector. A verbal warning may be issued upon the first instance of a violation. Violations encountered during routine inspections of construction activities are normally handled verbally. When a verbal warning is utilized, the warning shall specify the nature of the violation and the required corrective action, with deadlines for taking such actions. A verbal warning in no way relieves the discharger of liability for any violations occurring before or after receipt of the warning.

(b) Written notices. Written notices shall stipulate the nature of the violation and the required corrective action, with deadlines for taking such actions. Written notices shall normally be used starting with the least severe and progressively working to the most severe. Written notices shall be in the following forms, listed from least severe to most severe:

(i) Notice of alleged violation. Prior to the issuance of a Notice of Violation (NOV), the manager may order any person who causes or contributes, or may be a cause or contributor, to a violation of a storm water permit or order issued hereunder to show cause why a proposed enforcement action not be taken. A Notice of Alleged Violation (NAV) shall be served on the person, specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the person show cause why this proposed enforcement should not be taken. The NAV and notice of the meeting shall be served personally or by registered or certified mail, with return receipt, and postmarked at least ten (10) business days prior to the hearing. Such notice may be served on any person, principal executive, general partner, corporate officer, or other person with apparent authority to receive such notice.

(ii) Notification of violation. Whenever the manager finds any permittee or person discharging storm water, or other pollutants into the Town of Arlington MS4, or otherwise has violated or is violating this chapter, conditions of a storm water permit, or order issued hereunder, the Manager or his agent may serve upon said user written NOV. This notice shall be by personal service, or registered or certified mail with return receipt. Within ten (10) days of the receipt date of this notice, the recipient of this NOV shall provide the manager with a written explanation of the violation. The response shall also include a plan for satisfactory correction and prevention thereof, to include specified required actions and milestones for their completion. Submission of this plan in no way relieves the discharger of liability for any violations

occurring before or after receipt of the notice of violation. The Manager will render a response within twenty (20) days. If the Town of Arlington deems it necessary a complaint may be filed with the commissioner of the Tennessee Department of Environment and Conservation pursuant to Tennessee Code Annotated, § 69-3-118.

(iii) Consent agreement. The manager is hereby empowered to enter into consent agreements, assurances of voluntary compliance, or other similar documents establishing an agreement with the person or persons responsible for the non-compliance. Such agreements will include specific action to be taken by the permittee or person discharging storm water to correct the non-compliance within a time period specified by the agreements. Consent agreements shall have the same force and effect as compliance orders issued pursuant to subsection (f) below.

(iv) Compliance order. When the manager finds that any person has violated or continues to violate this chapter or any order issued hereunder, he may issue an order to the violator directing that, following a specified time period, adequate structures and/or devices be installed or procedures implemented and properly operated or followed. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the non-compliance, including the construction of appropriate structures, installation of devices, self-monitoring and related management practices.

(v) Cease and desist orders. When the manager finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder and such action or inaction has or may have the potential for immediate and significant adverse impact on the MS4 or the storm water discharges to it, the Manager may issue an order to cease and desist all such violations immediately and direct those persons in non-compliance to:

(1) Comply forthwith; or

(2) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(3) Anyone receiving a cease and desist order that includes instruction to halt operations shall receive an expedited review and appeal of such order within two (2) business days.

(vi) Show-cause notice. A show-cause notice is a follow-up to a stop work order. It is initiated when corrective actions have not been accomplished by the deadline provided in the stop work

order, and is normally the last written notice before administrative and/or civil penalties are assessed. Additionally, the manager may order any person who causes or contributes, or may be a cause or contributor, to a violation of a storm water permit or order issued hereunder to show cause why a proposed enforcement action should not be taken. The show-cause notice shall be served on the person, specifying the time and place of the meeting, the proposed enforcement action and the reason for such action, and a request that the person show cause why this proposed enforcement action not be taken. This notice shall be by personal service or registered or certified mail with return receipt and postmarked at least ten (10) days prior to the meeting. A show-cause notice in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice.

(c) Withholding of approvals or other authorizations. The manager is hereby empowered to withhold or cause to be withheld any permits, plat recordings, bond releases or any other instrument that would normally be issued to the violator until such time as the violations cease. Withholding may be performed in conjunction with other enforcement actions as deemed appropriate by the manager.

(d) Suspension, revocation or modification of permit. The town may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the town. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the town may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(2) Civil penalty. Any person who performs any of the following acts or omissions shall be subject to a civil penalty as set out in part II, chapter 1, §§1-4, Code of Shelby County per day for each day, or part thereof, during which the act or omission continues or occurs.

(a) Violates an effluent standard or limitation of water quality standard established under this chapter or established by Tennessee Code Annotated, title 69, chapter 3, part 1 (State of Tennessee Water Quality Control Act);

(b) Fails to obtain any required permit;

(c) Violates the terms and conditions of such required permit in subsection (d) above;

(d) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(e) Violates a final determination or order of the manager; or

(f) Violates any provision of this chapter.

Attachment 1[1] provides initial assessments for violations of this ordinance that may be assessed by the Manager. Chronic violators may be assessed up to the maximum amount permitted by Tennessee Code Annotated, § 68-221-1106. The manager, with consent of the mayor, may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to the Town of Arlington MS4 by any person, and to seek injunctive or other equitable relief to enforce compliance, with any lawful orders of the manager.

(3) Unlawful acts, misdemeanor. It shall be unlawful for any person to knowingly:

(a) Violate a provision of this chapter;

(b) Violate the provisions of any permit issued pursuant to this chapter;

(c) Fail or refuse to comply with any lawful notice to abate issued by the manager, which has not been timely appealed to the governing body within the time specified by such notice; or

(d) Violate any lawful order of the manager within the time allowed by such order.

Such person shall be guilty of a misdemeanor; and each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly. Any person found to be in violation of the provisions of this chapter shall be punished by a fine as set out in part II, chapter 1, §§ 1-4, Code of Shelby County. Upon learning of such act or omission, the manager may issue a town ordinance citation charging the person, firm, or entity with violating one (1) or more provisions of this ordinance (section) or permit issued thereunder, criminal violation of this chapter (section) may also be the basis for injunctive relief, with such actions being brought and enforced through the Shelby County General Sessions Environmental Court.

(4) Processing a violation. (a) The manager may issue an assessment against any person or permittee responsible for the violation.

(b) Any person against whom an assessment or order has been issued may secure a review of such assessment or order by filing with the manager a written petition setting forth the specific legal and technical grounds and reasons for his objections and asking for a hearing in the matter involved before the manager and if a petition for review of the assessment or order is not filed within thirty (30) days after the date the assessment or order 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 manager's assessment, the manager may

---

[1]Attachment 1 is available in the office of the town recorder.

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) The manager may consider the following factors when reviewing a petition:

(i) Whether the civil penalty imposed will be an appropriate economic deterrent to the illegal activity by the violator or others in the regulated community;

(ii) Damages to the town, including compensation for the damage or destruction of the Town of Arlington MS4, and also including any penalties, costs (direct or indirect) and attorneys' fees incurred by the town as a result of the illegal activity, as well as the expenses involved in enforcing this chapter and the costs involved in rectifying any damages;

(iii) Cause of the discharge or violation;

(iv) The severity of the discharge and its effect on the Town of Arlington MS4;

(v) Effectiveness of action taken by the violator to cease the violation;

(vi) The technical and economic reasonableness of reducing or eliminating the discharge;

(vii) The economic benefit gained by the violator;

(viii) The harm done to the public health or environment;

(ix) The amount of effort put forth by the violator to remedy the violation and/or the effectiveness of those remedies;

(x) Any unusual or extraordinary enforcement costs incurred by the town;

(xi) The amount of penalty established by ordinance or resolution for specific categories of violations;

(xii) Any equities of the situation, which outweigh the benefit of imposing any penalty or damage assessment.

(e) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of the Tennessee Department of Environment and Conservation for violations of Tennessee Code Annotated, § 69-3-115; however, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115 shall not exceed ten thousand dollars ($10,000.00) per day during which the act or omission continues or occurs.

(f) Referral to TDEC. Where the town has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the town has not been successful, the town may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2)

warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:

(i) Construction project or industrial facility location;

(ii) Name of owner or operator;

(iii) Estimated construction project or size or type of industrial activity (including SIC code, if known);

(iv) Records of communications with the owner or operator regarding the violation, including at least two (2) follow-up inspections, two (2) warning letters or notices of violation, and any response from the owner or operator.

(g) Other remedies. The town may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(h) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

(i) Any appeal of this final determination shall be made to a court of competent jurisdiction. Such appeal must be filed within fifteen (15) days of the decision by the manager.

(5) Appeals judicial proceedings and relief. The manager may initiate proceedings in any court of competent jurisdiction against any person who has or is about to:

(a) Violate the provisions of this chapter.

(b) Violate the provisions of any permit issued pursuant to this chapter.

(c) Fail or refuse to comply with any lawful order issued by the Manager that has not been timely appealed within the time allowed by this chapter.

(d) Violates any lawful order of the manager within the time allowed by such order.

Any person who shall commit any act declared unlawful under this chapter shall be guilty of a misdemeanor, and each day of such violation or failure shall be deemed a separate offense and punishable accordingly.

(6) Records retention. All dischargers subject to this chapter shall maintain and preserve for no fewer than five (5) years, all records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling, and chemical analyses made by or in behalf of the discharger in connection with its discharge. All records, which pertain to matters, which are the subject of any enforcement or litigation activities brought by the town pursuant hereto, shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(7) Facilities maintenance agreement. The "Inspection and Maintenance Agreement for Private Storm water Management Facilities" is included in Appendix B[1] as a minimum guideline for agreements between the Town of Arlington and owners/operators of storm water infrastructure not owned by the town. (as added by Ord. #2015-05, June 2015)

14-312. Appeals. Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the town's governing body.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the town's governing body, or other appeals board established by the town's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the town shall be final.

(3) Appealing decisions of the town's governing body. Any alleged violator may appeal a decision of the town's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #2015-05, June 2015)

---

[1]Appendix B is available in the office of the town recorder.

CHAPTER 4

STORM WATER UTILITY ORDINANCE

SECTION

14-401. Legislative findings and policy.
14-402. Creation of storm water utility.
14-403. Definitions.
14-404. Funding of storm water utility.
14-405. Storm water fund.
14-406. Operating budget.
14-407. Storm water user's fees established.
14-408. Equivalent residential unit (ERU).
14-409. Property classification for storm water user's fee.
14-410. Base rate.
14-411. Adjustments to storm water user's fees.
14-412. Property owners to pay charges.
14-413. Billing procedures and penalties for late payment.
14-414. Appeals of fees.

14-401. Legislative findings and policy. The Mayor and Board of Aldermen of the Town of Arlington, Tennessee finds, determines and declares that the storm water system which provides for the collection, treatment, storage and disposal of storm water provides benefits and services to all property within the incorporated town limits. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, treatment and release of storm water; the reduction of hazards to property and life resulting from storm water runoff; improvements in general health and welfare through reduction of undesirable storm water conditions; and improvements to the water quality in the storm water and surface water system and its receiving waters. (as added by Ord. #2016-04, June 2016)

14-402. Creation of storm water utility. For those purposes of the Federal Clean Water Act and of Tennessee Code Annotated, § 68-221-1101 et seq., there is created a storm water utility which shall consist of a manager or director and such staff as the town's governing body shall authorize.

The storm water utility, under the legislative policy, supervision and control of the governing body of the town, shall:

(1) Administer the acquisition, design, construction, maintenance and operation of the storm water utility system, including capital improvements designated in the capital improvement program;

(2) Administer and enforce this ordinance and all regulations and procedures adopted relating to the design, construction, maintenance, operation

and alteration of the utility storm water system, including, but not limited to, the quantity, quality and/or velocity of the storm water conveyed thereby;

(3) Advise the town's governing body and other town departments on matters relating to the utility;

(4) Prepare and revise a comprehensive drainage plan for adoption by the town's governing body;

(5) Review plans and approve or deny, inspect and accept extensions and connections to the system;

(6) Enforce regulations to protect and maintain water quality and quantity within the system in compliance with water quality standards established by state, regional and/or federal agencies as now adopted or hereafter amended;

(7) Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, civil penalties and other revenues of the utility. (as added by Ord. #2016-04, June 2016)

14-403. Definitions. For the purpose of this ordinance, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Base rate" means the storm water user's fee for a detached single family residential property in the town.

(2) "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement or extension of storm water facilities; preliminary planning to determine the economic and engineering feasibility of storm water facilities; the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of storm water facilities; and the inspection and supervision of the construction of storm water facilities;

(3) "Developed property" means real property which has been altered from its natural state by the creation or addition of impervious areas, by the addition of any buildings, structures, pavement or other improvements.

(4) "Equivalent Residential Unit" or "ERU" means the average square footage of a detached single family residential property determined pursuant to this ordinance.

(5) "Exempt property" means all properties of the federal, state, county, and local governments, and any of their divisions or subdivisions, and property that does not discharge storm water runoff into the storm water or flood control facilities of the town.

(6) "Fee" or "storm water user's fee" means the charge established under this ordinance and levied on owners or users of parcels or pieces of real property to fund the costs of storm water management and of operating, maintaining, and improving the storm water system in the town. The storm water user's fee is in addition to any other fee that the town has the right to charge under any other rule or regulation of the town.

(7) "Fiscal year" means July 1 of a calendar year to June 30 of the next calendar year, both inclusive.

(8) "Impervious surface" means a surface which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or any other surface which impedes the natural infiltration of surface water.

(9) "Impervious surface area" means the number of square feet of horizontal surface covered by buildings, parking lots, drives and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.

(10) "Other developed property" means developed property other than single-family residential property. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices, and churches.

(11) "Person" means 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.

(12) "Property owner" means the property owner of record as listed in the county's assessment roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

(13) "Single family residential property" means a developed property which serves the primary purpose of providing a permanent dwelling unit to a single family. A single family detached dwelling or a townhouse containing an accessory apartment or second dwelling unit is included in this definition.

(14) "Storm water" means storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.

(15) "Storm water management fund" or "fund" means the fund created by this ordinance to operate, maintain, and improve the town's storm water system.

(16) "Storm water management" means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, flood plains, flood control, grading, erosion, tree conservation, and sediment control.

(17) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs,

(18) "User" shall mean the owner of record of property subject to the storm water user's fee imposed by this ordinance. (as added by Ord. #2016-04, June 2016)

14-404. Funding of storm water utility. Funding for the storm water utility's activities may include, but not be limited to, the following:

(1) Storm water user's fees.

(2) Civil penalties and damage assessments imposed for or arising from the violation of the town's storm water management ordinance.

(3) Storm water permit and inspection fees.

(4) Other funds or income obtained from federal, state, local, and private grants, or revolving funds, and from the Local Government Public Obligations Act of 1986 (Tennessee Code Annotated, title 9, chapter 21).

To the extent that the storm water user's fees collected are insufficient to construct needed storm water drainage facilities, the cost of the same may be paid from such town funds as may be determined by the town's governing body. (as added by Ord. #2016-04, June 2016)

14-405. Storm water fund. All revenues generated by or on behalf of the storm water utility shall be deposited in a storm water utility fund and used exclusively for the storm water utility. (as added by Ord. #2016-04, June 2016)

14-406. Operating budget. The town's governing body shall adopt an operating budget for the storm water utility each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service. (as added by Ord. #2016-04, June 2016)

14-407. Storm water user's fees established. There shall be imposed on each and every developed property in the town, except exempt property, a storm water user's fee, which shall be set from time to time by ordinance or resolution, and in the manner and amount prescribed by this ordinance.

Prior to establishing or amending user's fees, the town shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the town at least fifteen (15) days in advance of the meeting of the town's governing body which shall consider the adoption of the fee or its amendment. (as added by Ord. #2016-04, June 2016)

14-408. Equivalent Residential Unit (ERU). (1) Establishment. There is established for purposes of calculating the storm water user's fee the Equivalent Residential Unit (ERU).

(2) Definition. The ERU is the average square footage of a detached single family residential property.

(3) Setting the ERU. The ERU shall be set by the town's governing body from time to time by ordinance or resolution.

(4) Source of ERU. The town's governing body shall have the discretion to determine the source of the data from which the ERU is established, taking into consideration the general acceptance and use of such source on the part of other storm water systems, and the reliability and general accuracy of the source. The town's governing body shall have the discretion to determine the impervious surface area of other developed property through property tax assessor's rolls or site examination, mapping information, aerial photographs, and other reliable information.

(5) Within the Town of Arlington, the average impervious area of a single family residence (i.e., the ERU) is established as three thousand five hundred (3,500) square feet. (as added by Ord. #2016-04, June 2016)

14-409. Property classification for storm water user's fee.

(1) Property classifications. For purposes of determining the storm water user's fee, all properties in the town are classified into one of the following classes:

(a) Single family residential property;

(b) Other developed property;

(c) Exempt property.

(2) Single family residential fee. The town's governing body finds that the intensity of development of most parcels of real property in the town classified as single family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structures, and other impervious areas) on each such parcel. Therefore, all single family residential properties in the town shall be charged a flat storm water management fee, equal the base rate, regardless of the size of the parcel or the improvements.

(3) Other developed property fee. The fee for other developed property (i.e., non-single-family residential property) in the town shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one ERU. The impervious surface area for other developed property is the square footage for the buildings and other improvements on the property. The minimum storm water management fee for other developed property shall equal the base rate for single family residential property.

(4) Exempt property. There shall be no storm water user's fee for exempt property. The following categories of property are exempt from the storm water user's fee:

(a) Undeveloped (i.e., vacant) property

(b) Property located within the 100-year flood plain which has not been filled above the base flood elevation as defined by FEMA

(c) All properties of the federal, state, county, and local governments, and any of their divisions or subdivisions

(d) Property that does not discharge storm water runoff into the storm water or flood control facilities of the town. (as added by Ord. #2016-04, June 2016)

14-410. Base rate. The town's governing body shall, by ordinance or resolution, establish the base rate for the storm water user's fee. The base rate shall be calculated to insure adequate revenues to fund the costs of storm water management and to provide for the operation, maintenance, and capital improvements of the storm water system in the town. For fiscal year 2016-2017, the base rate is established at two dollars ($2.00) per month per ERU. (as added by Ord. #2016-04, June 2016)

14-411. Adjustments to storm water user's fees. The storm water utility shall have the right on its own initiative to adjust upward or downward the storm water user's fees with respect to any property, based on the approximate percentage on any significant variation in the volume or rate of storm water, or any significant variation in the quality of storm water, emanating from the property, compared to other similar properties. In making determinations of the similarity of property, the storm water utility shall take into consideration the location, geography, size, use, impervious area, storm water facilities on the property, and any other factors that have a bearing on the variation. (as added by Ord. #2016-04, June 2016)

14-412. Property owners to pay charges. The owner of each non-exempt lot or parcel shall pay the storm water user's fees and charges as provided in this ordinance. (as added by Ord. #2016-04, June 2016)

14-413. Billing procedures and penalties for late payment.

(1) Rate and collection schedule. The storm water user's fee must be set at a rate, and collected on a schedule, established by ordinance or resolution. The storm water user's fee shall be billed and collected monthly with the utility services bill for the property.

(2) Delinquent bills. The storm water user's fee shall be billed through Memphis Light, Gas and Water (MLGW), and paid as per MLGW requirements. The storm water user's fee shall become delinquent as of sixty (60) days following the billing. Any unpaid storm water user's fee shall bear interest at the legal rate if it remains unpaid after one hundred twenty (120) days following the billing.

(3) Penalties for late payment. Storm water user's fees shall be subject to a late fee established by ordinance or resolution. The town shall be entitled

to recover attorney's fees incurred in collecting delinquent storm water user's fees. Any charge due under this ordinance which shall not be paid may be recovered at law by the town.

(4) Mandatory statement. Pursuant to Tennessee Code Annotated, § 68-221-1112, each bill that shall contain storm water user's fees shall contain the following statement in bold: **THIS FEE HAS BEEN MANDATED BY CONGRESS.** (as added by Ord. #2016-04, June 2016)

14-414. Appeals of fees. (1) Generally. Any person who disagrees with the calculation of the storm water user's fee, as provided in this ordinance, or who seeks a storm water user's fee adjustment based upon storm water management practices, may appeal such fee determination to the storm water utility within thirty (30) days from the date of the last bill containing storm water user's fees charges. Any appeal shall be filed in writing and shall state the grounds for the appeal. The storm water utility director may request additional information from the appealing party.

(2) Adjustments. Storm water user's fee adjustments for storm water management practices may be considered for: reductions in runoff volume including discharge to a non-town drainage system; and properly designed constructed and maintained existing retention facilities, i.e. evaporation and recharge. Based upon the information provided by the utility and the appealing party, the storm water utility shall make a final calculation of the storm water drainage fee. The storm water utility shall notify the parties, in writing, of its decision. (as added by Ord. #2016-04, June 2016)

Appendix A. Calculating storm water user fees.

Calculating Storm water user fees can be done in a simple, equitable manner. The annual budget of the storm water utility is divided by the total number of Equivalent Residential Units (ERUs) in the storm water system limits. Division of the result by twelve (12) would yield the monthly fee per ERU. An equivalent residential unit is based on the average impervious area (in square feet) of a detached single family residential property. Within the Town of Arlington, the average impervious area of a single family residence is three thousand five hundred (3,500) square feet. Each detached single residential family property would be one (1) ERU. Other developed properties would divide their total amount of impervious surface area (in square feet) by the number of square feet in an ERU, to get the number of ERU's for that property. The sum of all other developed property ERUs and single family residential ERUs would be the total number of ERUs.

Annual budget. The annual costs for the storm drainage system includes permitting, maintaining, planning, designing, reconstructing, constructing,

environmentally restoring, regulating, testing, inspection of the system, management and administration, and the establishment of a reserve balance.

Equivalent Residential Unit (ERU). The average square footage of a single family residential property is equivalent to one (1) ERU.

Total ERUs. The total ERUs within the limits of the storm water utility is calculated according to the following formula:

> Total ERUs = other developed property ERUs + single family residential ERUs

Single family residential user fee. The fee that residential users within the limits of the storm water utility pay for their share of the annual budget. The fee is calculated according to the following formula:

> Single family residential user fee = annual budget ÷ total ERUs within storm water utility limits

This number should be divided by twelve (12) to establish the monthly user fee:

> Single family residential user fee ÷ 12 = monthly single family residential user fee

Other Developed Property User Fee. The fee that other developed property users within the limits of the storm water utility pay for their share of the annual budget. The fee is calculated according to the following formula:

> Other Developed property ERUs = impervious surface area square feet ÷ 3,500 square feet
>
> Monthly other developed property user fee = monthly single family residential user fee x other developed property ERUs

Example: Town X storm water utility department has an annual budget of $200,000. There are 5,000 homes in Town X, an apartment complex, Maxwell House Apartments, with a total impervious surface area of 5 acres, or 217,800 square feet (sq. ft.), a motel, Red Lite Inn, with a total impervious surface area of 2 acres, or 87,120 square feet, GoodDay Tire and Rubber Company with a total impervious surface area of 15 acres, or 653,400 square feet, and a Super Wally World with a total impervious surface area of 10 acres, or 435,600 square feet. Per the Town X Area Association of Realtors, the average detached single family residential property has 3,500 square feet.

1 ERU = 3,500 square feet
Single family residential ERUs = 5,000 ERUs
Other developed property ERUs =

$$\frac{(217{,}800 + 87{,}120 + 653{,}400 + 435{,}600 \text{ sf})}{3{,}500 \text{ sq ft}} = \frac{1{,}393{,}920 \text{ sf}}{3{,}500 \text{ sq ft}}$$

= 398 ERUs

Total ERUs = 398 other developed property ERUs + 5,000 single family residential ERUs = 5,398 ERUs

Single family residential user fee = $200,000 annually ÷ 5,398 ERUs = $37.05 annually/ERU

OR

($37.05 annually/ERU) ÷ (12 mo./year) = **$3.09 monthly/ERU = monthly single family residential user fee**

Maxwell House Apartments:
Maxwell House Apartment's ERUs: 217,800 sq ft ÷ 3,500 sq ft/ERU = 62.2 ERUs
Maxwell House Apartment's monthly user fee:
$3.09 monthly/ERU x 62.2 ERUs = **$192.20 = Maxwell House Apartment's monthly user fee**

Red Lite Inn:
Red Lite Inn's ERUs: 87,120 sq ft ÷ 3,500 sq ft/ERU = 24.9 ERU's
Red Lite Inn's monthly user fee:
$3.09 monthly/ERU x 24.9 ERUs = **$76.94 = Red Lite Inn's monthly user fee**

Super Wally World:
Super Wally World's ERUs: 435,600 sq ft ÷ 3,500 sq ft/ERU = 124.5 ERUs Super Wally World's monthly user fee:
$3.09 monthly/ERU x 124.5 ERUs = **$384.71 = Super Wally World's monthly user fee**

GoodDay Tire and Rubber Company:
GoodDay Tire and Rubber Company's ERUs = 653,400 sq ft ÷ 3,500 sq ft/ERU = 186.7 ERUs

GoodDay Tire and Rubber Company's monthly user fee:
$3.09 monthly/ERU x 186.7 ERUs = **$576.90 = GoodDay Tire and Rubber Company's monthly user fee** (as added by Ord. #2016-04, June 2016)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER
1. MISCELLANEOUS.
2. ADMINISTRATION AND ENFORCEMENT.
3. OPERATION OF VEHICLES.
4. STOPPING, STANDING AND PARKING.
5. BICYCLES.
6. PEDESTRIANS.
7. ACCIDENTS.
8. REGISTRATION OF VEHICLES.
9. VEHICLE EQUIPMENT AND LOADS.
10. TRAFFIC CONTROL DEVICES.

CHAPTER 1

MISCELLANEOUS[2]

SECTION
15-101. Definitions.
15-102. General duties of the Arlington Police Chief and/or the Shelby County Sheriff under chapter.
15-103. Duty of officers to enforce traffic laws.
15-104. Authority to direct traffic.
15-105. Authority of firemen to direct traffic.
15-106. Obedience to traffic officers.
15-107. Obedience to school safety patrols.
15-108. Riding or driving animals or animal driven vehicles.

---

[1]Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

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

15-109. Application of chapter to persons propelling pushcarts.
15-110. Application of chapter to persons working on street.
15-111. Exemptions for authorized emergency vehicles.
15-112. Clinging to moving vehicles.
15-113. Boarding or alighting from vehicle in motion.
15-114. Riding on portion of vehicle not intended for passengers.
15-115. Riding on motorcycles.
15-116. Motorcycles, etc.--wearing of crash helmets by driver and passenger required; operation of headlights required.
15-117. Motorcycles, etc.--passenger seats required.
15-118. Motorcycles, etc.--windshield; wearing of goggles by operator and passenger.
15-119. Motorcycles, etc.--penalty for violation of §§ 15-116 through 15-118.
15-120. Motorcycles, etc.--parent deemed guilty of an offense for permitting minor to violate §§ 15-116 through 15-118.
15-121. Child passenger safety responsibility.
15-122. Deposit of glass, nails, etc., in street or highway prohibited; removal of same.
15-123. Report of vehicles stored for more than thirty days.
15-124. Traffic records and reports.
15-125. Chapter violators to furnish name and address.
15-126. Processions, vehicular or pedestrian, on streets or highways.
15-127. Processions, vehicular or pedestrian, on streets or highways--participation prior to compliance with section.
15-128. Processions, vehicular or pedestrian, on streets or highways--penalty for violation of §§ 15-126 and 15-127.

15-101. Definitions. The following terms, whenever used in this chapter, except as otherwise specifically indicated, shall be held to have each of the meanings hereinbelow set forth, and any such term used in the singular number shall be held to include the plural.

(1) "Alley." Any lane or other passageway as so designated by the official map of the Town of Arlington in Shelby County.

(2) "Authorized emergency vehicle." Vehicles of the police, sheriff or fire department, and such ambulances and emergency vehicles as are designated or authorized by the state commissioner of safety, Arlington Police Chief or the Shelby County Sheriff.

(3) "Bicycle." Every device propelled by human power upon which any person may ride, having two (2) tandem wheels either of which is more than twenty (20) inches in diameter.

(4) "Bus." Every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(5) "Chauffeur." Every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation.

(6) "Coach stop." A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

(7) "Controlled-access highway." Every street, highway or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the proper authorities having jurisdiction over such street, highway or roadway.

(8) "Crosswalk." That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curb or, in absence of curbs, from the edges of the traversable roadway. Such term shall also include any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(9) "Curb." The lateral boundary of that portion of the street designated for the use of vehicles, whether marked with a curbstone or not.

(10) "Driver." Every person who drives or is in actual physical control of a vehicle.

(11) "Intersection." The areas embraced with the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways of two (2) streets which join one another at, or approximately at, right angles, or the areas within which vehicles traveling upon different streets joining at any other angle may come in conflict. Where a street includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided street by an intersecting street shall be regarded as a separate intersection. In the event such intersecting street also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such street shall be regarded as a separate intersection.

(12) "Laned roadway." A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

(13) "License to operate a motor vehicle." Any operator's or chauffeur's license, or any other license or permit to operate a motor vehicle issued under the laws of the state including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to drive a motor vehicle whether or not such person holds a valid license;

(c) Any nonresident's operating privilege as defined in the Tennessee Code.

(14) "Loading and unloading zone." Any portion of the street designated by the county or state by official signs for the use of vehicles while actually

engaged in loading or unloading freight or picking up and discharging passengers.

(15) "Metal tire." Every tire the surface of which in contact with the street is wholly or partly of metal or other hard, nonresilient material.

(16) "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.

(17) "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 twenty-five (125) cubic centimeters.

(18) "Motorized bicycle." A vehicle with fully operable pedals for propulsion by human power, an automatic transmission, and 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. The operator of a motorized bicycle must be in possession of a valid operator's or chauffeur's license, and shall be subject to all applicable and practical rules of the road. A motorized bicycle may not be operated on a highway of the interstate and defense highway system, any similar limited-access multilane divided highway, or upon sidewalks.

(19) "Motor vehicle." Every vehicle which is self-propelled, excluding motorized bicycles, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(20) "Off-street parking facility." Any unenclosed lot, building or space used for the parking of automobiles or other motor vehicles where charges are made for the parking or storage of automobiles or other motor vehicle thereon.

(21) "Officer." Any person authorized to direct or regulate traffic or to make arrests for violations of traffic regulations, including Arlington Police Officers or Shelby County Sheriff's Deputies.

(22) "Official traffic-control devices." All signs, markings, signals and devices not inconsistent with this chapter, placed or erected by authority of the town, county or state for the purpose of regulating, warning or guiding traffic.

(23) "Operator." Every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

(24) "Owner." Any person in whose name any vehicle shall be registered under the laws of the state, or of any other political subdivision where such owner may be domiciled.

(25) "Parking." The standing of a vehicle, whether occupied or not, upon a street otherwise than temporarily for the purpose of, and while actually engaged in, receiving or discharging passengers, or loading or unloading merchandise, or in obedience to traffic regulations or traffic signs or signals.

(26) "Pedestrian." Any person afoot.

(27) "Pneumatic tire." Every tire in which compressed air is designed to support the load.

(28) "Private road or driveway." Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(29) "Railroad." A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(30) "Railroad sign or signal." Any sign, electrically or manually operated signal or other device erected by authority of the proper officials of the county or state or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(31) "Railroad train." A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

(32) "Right-of-way." The privilege of the immediate use of the roadway.

(33) "Roadway." That portion of a street improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a street includes two (2) or more separate roadways, the term "roadway" shall refer to any such roadway separately but not to all such roadways collectively.

(34) "Safety zone." The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicted by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(35) "School bus." Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(36) "Semi-trailer." Every vehicle, with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(37) "Sidewalk." That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(38) "Solid tire." Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(39) "Stop." When required, means complete cessation from movement.

(40) "Stopping, standing or parking." When prohibited, means any stopping or standing or parking of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of an officer or traffic control sign or signal.

(41) "Street." The entire width between right-of-way lines of every way, except designated alleys, publicly maintained when any part thereof is open to the use of the public for the purpose of vehicular travel.

(42) "Taxicab." Any vehicle, other than a bus, used in the carrying or transporting of persons or property for hire.

(43) "Taxicab stand." Any portion of the street assigned or allotted to any person for the exclusive purpose of parking one or more taxicabs.

(44) "Tractor." Any self-propelled vehicle designed or used as a traveling power plant or for drawing other vehicles, but having no provision for carrying loads independently.

(45) "Traffic." Pedestrians, ridden or herded animals, vehicles, and other conveyances, either singly or together, while using any street for purposes of travel.

(46) "Traffic-control signal." Any sign or device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed, or otherwise controlled.

(47) "Trailer." Every vehicle, with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(48) "Truck." Every motor vehicle designed, used or maintained primarily for the transportation of property.

(49) "Vehicle." Every device in, upon or by which any person or property is or may be transported or drawn upon a street, excepting devices used exclusively upon stationary rails or tracks. (Ord. #1997-14, Oct. 1997)

15-102. **General duties of the Arlington Police Chief and/or the Shelby County Sheriff under chapter**. The Police Chief of Arlington and/or the Sheriff of Shelby County is hereby vested with the power and is charged with the duty of observing, administering and enforcing the provisions of this chapter and of all laws regulating the operation of vehicles of the use of the streets and highways in Arlington, Tennessee. (Ord. #1997-14, Oct. 1997)

15-103. **Duty of officers to enforce traffic laws**. It shall be the duty of the officers of the Arlington Police Department and/or deputies of the Shelby County Sheriff's Office or such persons as are assigned by the chief of police and/or the sheriff to enforce all traffic laws of Arlington, Tennessee and all the state motor vehicle laws applicable to traffic in the Town of Arlington. (Ord. #1997-14, Oct. 1997)

15-104. **Authority to direct traffic**. Officers of the Arlington Police Department, Shelby County Sheriff's Office or such persons as are assigned by the chief of police and/or the Sheriff of Shelby County are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of Arlington or the sheriff's office may direct traffic as conditions may require notwithstanding the provisions of the traffic laws. (Ord. #1997-14, Oct. 1997)

15-105. Authority of firemen to direct traffic. Personnel of the fire department, when at the scene of a fire, may direct or assist the Arlington Police or the sheriff's office in directing traffic at or in the immediate vicinity of the fire. (Ord. #1997-14, Oct. 1997)

15-106. Obedience to traffic officers. No person shall willfully fail or refuse to comply with any lawful order or direction of any officer, or of a fire department official at the scene of a fire, or any person authorized to direct, control or regulate traffic. (Ord. #1997-14, Oct. 1997)

15-107. Obedience to school safety patrols. All motorists and pedestrians shall obey the directions or signals of the school safety patrols, when such patrols are assigned under the authority of the Arlington Police Chief or the Shelby County Sheriff, and when acting in accordance with instructions; provided, that such persons giving any order, signal or directions shall at the time be wearing some insignia and using authorized flags for giving signals. (Ord. #1997-14, Oct. 1997)

15-108. Riding or driving animals or animal driven vehicles.

(1) Every person riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which, by their very nature, can have no application.

(2) No person shall ride or drive any animal upon any street or highway beyond a moderate gait. Every person riding or driving any animal upon any street or highway shall slacken the pace of such animal in approaching any street crossing upon which any person may be in the act of crossing and shall also slacken the pace of such animal when any person is boarding or leaving a bus or trackless trolley. Every person driving or riding any animal shall exercise due care to avoid colliding with or striking any person or property in a public street. It shall be unlawful for any person to leave any animal standing in a public street without the animal's being fastened or so guarded as to prevent running away, or to turn the animal loose in any street. (Ord. #1997-14, Oct. 1997)

15-109. Application of chapter to persons propelling pushcarts. Every person propelling any pushcart shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions which, by their very nature, can have no application. (Ord. #1997-14, Oct. 1997)

15-110. Application of chapter to persons working on street. Unless specifically made applicable, the provisions of this chapter shall not apply to persons, teams, motor vehicles and other equipment while actually

engaged in work upon the surface of a street, but shall apply to such persons and vehicles when traveling to or from such work. (Ord. #1997-14, Oct. 1997)

15-111. **Exemptions for authorized emergency vehicles**. (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, but subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may:

(a) Park, stand or stop irrespective of the provisions of this chapter;

(b) Proceed past a red signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the speed limits so long as he does not endanger life or property;

(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 state laws, except that an authorized emergency vehicle operated as a law enforcement vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (Ord. #1997-14, Oct. 1997)

15-112. **Clinging to moving vehicles**. No person riding upon any roller skates, skate board, sled, toy vehicle or other means of locomotion shall hang onto, catch hold of or otherwise attach himself to a moving vehicle for the purpose of being propelled thereby along the street or highway. (Ord. #1997-14, Oct. 1997)

15-113. **Boarding or alighting from vehicle in motion**. No person shall board or alight from any vehicle while such vehicle is in motion. (Ord. #1997-14, Oct. 1997)

15-114. **Riding on portion of vehicle not intended for passengers**. No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision also applies to minors under the age of eighteen (18) riding within a truck body intended for merchandise. This provision shall not apply to an employee eighteen (18) years or over, riding in the truck body intended for merchandise if he/she is engaged, in the

necessary discharge of a duty, if they are doing so, in a safe manner. (Ord. #1997-14, Oct. 1997)

15-115. Riding on motorcycles. A person operating a motorcycle or a motor-driven cycle shall ride only upon the permanent and regular seat attached thereto. Such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached behind the operator's seat. (Ord. #1997-14, Oct. 1997)

15-116. Motorcycles, etc.—wearing of crash helmets by driver and passenger required; operation of headlights required. (1) The driver of a motorcycle or motor-driven cycle and any passenger thereon shall be required to wear a crash helmet of a type approved by the commissioner of safety of the state.

(2) Whenever motorcycles or motor-driven cycles are in operation upon the streets, highways and alleys of the Town of Arlington, headlights and tail lights shall be in operation irrespective of daylight or darkness. (Ord. #1997-14, Oct. 1997)

15-117. Motorcycles, etc.--passenger seats required. No person shall ride as a passenger upon a motorcycle or motor driven cycle unless a proper seat for a passenger is installed thereon. (Ord. #1997-14, Oct. 1997)

15-118. Motorcycles, etc.--windshield; wearing of goggles by operator and passenger. Every motorcycle or motor-driven cycle operating upon any public street or public alley or public highway shall be equipped with a windshield of a type approved by the commissioner of safety of the state, or, in the alternative, the operator and any passenger on such motorcycle or motor-driven cycle shall be required to wear safety goggles of a type approved by the commissioner of safety of the state for the purpose of preventing any flying object from striking the operator or any passenger in the eye. (Ord. #1997-14, Oct. 1997)

15-119. Motorcycles, etc.—penalty for violation of §§ 15-116 through 15-118. Any person who violates the provisions of §§ 15-116 through 15-118 shall be guilty of an offense and upon conviction shall be subject to punishment as provided in § 15-128 of this chapter. (Ord. #1997-14, Oct. 1997)

15-120. Motorcycles, etc.—parent deemed guilty of an offense for permitting minor to violate §§ 15-116 through 15-118. If any parent or guardian knowingly permits a minor to operate a motorcycle or motor-driven cycle in violation of §§ 15-116 through 15-118 such parent or guardian shall be

guilty of an offense and upon conviction shall be subject to punishment as provided in § 15-128 of this chapter. (Ord. #1997-14, Oct. 1997)

15-121. **Child passenger safety responsibility**. (1) Any person transporting a child under the age of four (4) years in a motor vehicle upon the roadways, streets or highways of the Town of Arlington shall be responsible for providing for the protection of the child and properly using a child passenger restraint system meeting federal motor vehicle safety standards; provided, however, nothing in this subsection shall restrict a mother from removing the child from the restraint system and holding the child when the mother is nursing the child or attending to its other physiological needs. Provided further, that in no event shall failure to wear a child passenger restraint system be considered as contributory negligence, nor shall failure to wear such child passenger restraint system be admissible as evidence in a trial of any civil action. All passenger vehicle rental agencies doing business in the town shall make available at a reasonable rate to those renting such vehicles an approved restraint as described in Tennessee Code Annotated, § 55-9-602.

(2) Violation of any provisions of this section is hereby declared an offense and anyone convicted of any such violation shall be fined not less than two dollars ($2.00), nor more than fifty dollars ($50.00), for each violation. (Ord. #1997-14, Oct. 1997)

15-122. **Deposit of glass, nails, etc., in street or highway prohibited; removal of same**. (1) No person shall throw or deposit upon any street any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such street. Any person who drops, or permits to be dropped or thrown, any destructive or injurious material upon any street shall immediately remove the same or cause it to be removed.

(2) Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle. (Ord. #1997-14, Oct. 1997)

15-123. **Report of vehicles stored for more than thirty days**.

(1) Whenever a motor vehicle has been stored, parked or left in a garage, trailer park or court, or any type of storage or parking lot for a period of more than thirty (30) consecutive days, the owner of such garage, trailer park or lot shall report in writing the make, motor number, vehicle identification number and serial number of such motor vehicle to the Arlington Police Department or the Shelby County Sheriff's Office. This section shall not apply where the owner of the motor vehicle so parked or stored is personally known to the owner or operator of the garage, trailer park or court, storage or parking lot and where such motor vehicle owner has made arrangements for the parking or storing of such motor vehicle for a longer period of time than thirty (30) days.

(2) Any person who fails to submit the report required hereunder within ten (10) days after the termination of such thirty (30) day period shall forfeit all claims for storage or parking of such vehicle and shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10.00) for each offense. Each day's failure to make such report shall be deemed a separate offense. (Ord. #1997-14, Oct. 1997)

15-124. Traffic records and reports. The Arlington Police Department or sheriff's office shall maintain a suitable system of filing accident reports, drivers' records, arrests, convictions for arrests or citations and shall periodically prepare a traffic report which shall be filed with the board of mayor and aldermen containing information on traffic matters in the town. Such reports shall include the following:

(a) The number of traffic accidents, the number of persons injured and/or fatally injured, and other pertinent traffic accident data;

(b) The number of traffic accidents investigated and other pertinent data on the safety activities of the sheriff's office;

(c) The plans and recommendations of the division for future traffic safety activities. (Ord. #1997-14, Oct. 1997)

15-125. Chapter violators to furnish name and address. Any person charged with violating any provision of this chapter shall furnish to any officer or sheriff's deputy, on demand, his correct name and address and supply also, if required, proof of his identity. Any failure to comply with this requirement shall be justification for immediate arrest. (Ord. #1997-14, Oct. 1997)

15-126. Processions, vehicular or pedestrian, on streets or highways. (1) No person shall use the public streets or highways of the Town of Arlington for processions, pedestrian or vehicular, or a combination thereof, in conflict with any of the traffic ordinances, laws or regulations of the Town of Arlington, or whereby normal pedestrian or vehicular traffic may be impeded, hindered or obstructed, except upon notification in writing to the chief of police not less than seventy-two (72) hours nor more than thirty (30) days before the date and time of the commencement of the procession the following information:

(a) The name, address and telephone number of the person, group of persons, firm, partnership, association, corporation, company or organization planning such a procession, and responsibility for its conduct.

(b) The time of the procession's commencement; the composition of the procession; the specific route to be traveled; the starting point and the termination point.

(c) The approximate number of persons, animals and vehicles expected to participate in such processions, together with a description of the type of animals and vehicles involved.

(2) This section shall not apply to:

(a) Funeral processions proceeding by vehicle under the most reasonable route from the funeral home, church or residence of the deceased to the place of interment.

(b) A governmental agency acting within the scope of its functions.

(3) Upon receipt of such notification above described, the chief of police or his designated agent shall furnish to the person making such notification a written acknowledgment of receipt of such notification.

(4) In the event the notification shows that the procession will unreasonably interfere with the rights of others to use the streets with respect to time, route or composition, the chief of police shall direct that the plan for the procession shall be appropriately adjusted, with the provision that such change in plan shall be delivered to the person or group notifying the chief of police at least twenty-four (24) hours prior to the proposed beginning time of the procession.

(5) In the event that the chief of police receives notification of more than one procession to be held on the same date, the chief of police may route each of such processions so that they will not conflict with each other. (Ord. #1997-14, Oct. 1997)

15-127. **Processions, vehicular or pedestrian, on streets or highways—participation prior to compliance with section**. It shall be unlawful to participate in any manner in a procession on the public streets or highways as described herein prior to compliance with the provisions of § 15-126. (Ord. #1997-14, Oct. 1997)

15-128. **Processions, vehicular or pedestrian, on streets or highways—penalty for violations of §§ 15-126 and 15-127**. Any person violating any provision of §§ 15-126 and 15-127 shall, upon conviction, be subject to punishment as provided in § 15-201 of this municipal code. (Ord. #1997-14, Oct. 1997)

CHAPTER 2

ADMINISTRATION AND ENFORCEMENT

SECTION

15-201. General penalty; continuing violations; court costs; definitions.
15-202. When summonses deemed lawful complaints for prosecution.
15-203. Procedures applicable to summonses and traffic citations.
15-204. Violation forfeitures; exceptions.
15-205. Court may adopt rule permitting deposit of commercial or operator's license in lieu of bond.
15-206. Limitation on action for traffic violation; when action deemed commenced; service of summons.
15-207. Dismissal, nolle prossing of summons or citation not prohibited.

15-201. General penalty; continuing violations; court costs; definitions. (1) Whenever in the ordinance comprising this chapter any act is prohibited or is made or declared to be unlawful or an offense, or wherever the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of the ordinance comprising this chapter shall be punished by a fine of not more than fifty dollars ($50.00) for each separate violation; provided, however, that the infliction of a fine under the provisions under the ordinance comprising this chapter shall not prevent the revocation of any permit or license for violation of any provisions hereof where called for or permitted under the provisions of the ordinance comprising this chapter or of any other ordinance. The general sessions judges shall fix the amount of any fine to be levied under the provisions hereof as his discretion may dictate. Each day that any violation of the ordinance comprising this chapter continues shall constitute a separate offense.

(2) Where any act of the general assembly of the state provides for a greater minimum penalty than one dollar ($1.00), the minimum fine or penalty prescribed by the state shall prevail, and be assessed by the general sessions judge.

(3) Except for certain speeding offenses occurring on interstate highways, for each offense in which a fine is assessed a defendant by the court, or, where authorized, the defendant elects to pay a fine forfeiture and thereby waive the right to a court hearing, said defendant, in addition to the amount of the fine, shall be required to pay to the clerk of the general sessions court costs in the following amounts:

Described fee or tax	Amount
State litigation tax	$11.25
County litigation tax	$15.00

Clerk's fee	$15.00
Sheriff's fee	$15.00
Data processing fee	$ 2.00
Library fee	$ 1.50

(4) The following definitions shall apply to §§ 15-202 through 15-206:

(a) "Ordinance summons" is a ticket issued to an offender by an officer or other person authorized by law to appear in the general sessions court for any offense other than traffic, showing the offense charged and signed by the offender agreeing to appear at the place and time indicated; said ordinance summons being issued for the violation of any other ordinance, law or regulation of the town in the presence of an officer or other designated official authorized to issue such summonses by law.

(b) "Summons" is the process issued by the general sessions court, and signed by the judge or clerk as provided by law, and served by personal service or certified or registered mail, as provided by law.

(c) "Traffic citation" is any ticket issued by an officer or other person authorized by law where there is no personal delivery of the ticket to the offender and the ticket is not signed by the offender, such as a parking ticket.

(d) "Traffic summons" is any ticket issued to an offender by an officer of other person authorized by law to appear in the general sessions court, showing the offense charged and signed by the offender agreeing to appear at the time and place indicated, or to appear in the general sessions court clerk's office on or before the time indicated to pay the forfeiture required. (Ord. #1997-14, Oct. 1997)

15-202. When summonses deemed lawful complaints for prosecution. In the event the form of traffic summons, traffic citation or ordinance summons issued includes information as required under the general laws of this state, adopted herein, or the charter of the county or Arlington, or this section in respect to a complaint charging the commission of offense alleged in said traffic summons, traffic citation or ordinance summons to have been committed, then such summons or citation, when filed with the clerk's office, shall be deemed to be a lawful complaint for the purpose of prosecution under this chapter in accordance with the procedures herein. (Ord. #1997-14, Oct. 1997)

15-203. Procedures applicable to summonses and traffic citations. The following procedures shall apply as to traffic summonses, ordinance summonses and traffic citations:

(1) Traffic summonses. Every traffic summons issued shall provide for an appearance date. If the offender does not contest the charged offense and a mandatory court appearance is not required by the officer issuing the summons, he or she shall pay by mail or shall appear at the general sessions court clerk's office on the date set therein or at any time prior thereto and pay the forfeiture as set forth herein prior to or on the date set therein.

If any offender fails to appear on or before the appearance date, a docket shall be prepared and presented to the court. The court may, upon motion of the clerk, take a default judgment against a defendant in favor of the county in an amount not less than that specified by the schedule of forfeitures nor more than fifty dollars ($50.00) per offense, plus costs, or the court, in its discretion, may issue a warrant for the arrest of such defendant.

(2) Ordinance summonses. Whenever any person is served with an ordinance summons, said person shall appear at the date and time set forth therein in court for hearing of said cause unless such violation has a forfeiture set specifically in § 15-204. If such person fails to appear on the date and time, a default judgment shall be taken not to exceed fifty dollars ($50.00) and costs for each offense, or at the discretion of the court, a warrant may be issued for the arrest of the defendant.

(3) Traffic citation. Whenever any traffic citation has been issued, the citation shall provide for payment within fifteen (15) days from issuance. Any person receiving such traffic citation may appear and pay the forfeiture set therein at the general sessions court clerk's office on or before that date, either in person or by mail. If no one appears to pay such traffic citation by the end of said fifteen-day period, then a summons shall be issued and served either by personal service or certified or registered mail as provided by law indicating the date and time for such person to appear to answer the charge in such traffic citation. The traffic citation summons shall be set upon the docket specially established for such summons. If such person fails to appear to answer such summons before the court indicated and at the date and time provided for, the court, upon motion of the county or Arlington, shall take a default judgment against the defendant in favor of the county or Arlington. The amount of such default judgment shall be at least the amount of the forfeiture set for the violation of such section and no more than one hundred dollars ($100.00) and costs for each violation.

The traffic citation summons shall be sworn to by the officer before a person designated as general sessions clerk for the purpose of taking oaths on a form of oath approved by a majority of the general sessions court judges. The general sessions court clerk's office shall certify that the defendant is the registered owner of the vehicle by signing the docket and certifying to such registration. The oath of the officer and certification of the clerk shall be prima facie evidence that the defendant violated the section charged. If the defendant contests the ownership of the vehicle or the violation of the ordinance, he shall file a sworn pleading in evidence of the hearing setting forth such defense or

defenses so as to allow the county sufficient time to prepare for the trial. (Ord. #1997-14, Oct. 1997, as amended by Ord. #1998-20, Aug. 1998)

15-204. Violation forfeitures; exceptions. (1) The general sessions court is hereby authorized to collect the following schedule of forfeitures:

TRAFFIC VIOLATIONS SCHEDULE OF FORFEITURES

Section Violated	Nature of Violation	Fine Forfeiture
15-106	Obedience to traffic officers	$50.00
15-107	Obedience to school safety patrols	$50.00
15-112	Clinging to moving vehicles	$50.00
15-113	Boarding or alighting from vehicle in motion	$50.00
15-114	Riding on portion of vehicle not intended for passengers	$50.00
15-115	Riding on motorcycles	$35.00
15-116	Motorcycles, etc.--wearing crash helmets by driver and passenger required; operation of headlights required	$50.00
15-117	Motorcycles, etc.--passenger seats required	$35.00
15-118	Motorcycles, etc.--windshield; wearing of goggles by operator and passenger	$35.00
15-120	Motorcycles, etc.--parent deemed guilty of misdemeanor for permitting minors to violate §§ 15-116 through 15-118	$50.00
15-121	Child passenger safety responsibility	$65.00
15-122	Deposit of glass, nails, etc. in street prohibited; removal of same	$50.00
15-125	Chapter violators to furnish name and address	$50.00
15-301	State license required	$45.00
15-302	Duty to devote full time and attention to operating vehicle	$50.00
15-303	Duty to drive at safe speed, maintain lookout and keep vehicle under control	$50.00

TRAFFIC VIOLATIONS SCHEDULE OF FORFEITURES

Section Violated	Nature of Violation	Fine Forfeiture
15-304	Driving when view or control obstructed	$50.00
15-305	Lap driving	$35.00
15-306	Pulling away from curb	$35.00
15-307	Emerging from or entering alley, private driveway or building	$50.00
15-308	Duty to drive on right side of roadway	$40.00
15-309	Passing vehicles proceeding in opposite direction	$40.00
15-310	Passing vehicles proceeding in same direction--generally	$40.00
15-311	Passing vehicles proceeding in same direction--on right side	$40.00
15-312	Passing vehicles proceeding in same direction--duty of driver of overtaken vehicle	$40.00
15-313	Overtaking and passing school buses; identification of buses	$40.00
15-314	Driving on roadways laned for traffic	$40.00
15-315	Driving on divided street	$40.00
15-316	Entering/leaving controlled-access roadway	$40.00
15-317	Driving in parks	$40.00
15-318	Driving within sidewalk area	$40.00
15-319	Obstructing intersection or crosswalk	$40.00
15-320	Following too closely	$45.00
	GENERAL SPEED RESTRICTIONS	
15-321	Speed limit 15-mph zone:	
	16 mph through 25 mph	$25.00
	26 mph through 35 mph	$35.00
	36 mph through 40 mph	$50.00

TRAFFIC VIOLATIONS SCHEDULE OF FORFEITURES

Section Violated	Nature of Violation	Fine Forfeiture
	41 mph and over	$75.00
15-321	Speed limit 20-mph zone:	
	21 mph through 30 mph	$25.00
	31 mph through 40 mph	$35.00
	41 mph through 45 mph	$50.00
	46 mph and over	$75.00
15-321	Speed limit 25-mph zone:	
	26 mph through 35 mph	$25.00
	36 mph through 45 mph	$35.00
	46 mph through 50 mph	$50.00
	51 mph and over	$75.00
15-321	Speed limit 30-mph zone:	
	31 mph through 40 mph	$25.00
	41 mph through 50 mph	$35.00
	51 mph through 55 mph	$50.00
	56 mph and over	$75.00
15-321	Speed limit 35-mph zone:	
	36 mph through 45 mph	$25.00
	46 mph through 55 mph	$35.00
	56 mph through 60 mph	$50.00
	61 mph and over	$75.00
15-321	Speed limit 40-mph zone:	
	41 mph through 50 mph	$25.00
	51 mph through 60 mph	$35.00
	61 mph through 65 mph	$50.00

TRAFFIC VIOLATIONS SCHEDULE OF FORFEITURES

Section Violated	Nature of Violation	Fine Forfeiture
	66 mph and over	$75.00
15-321	Speed limit 50-mph zone:	
	51 mph through 60 mph	$25.00
	61 mph through 70 mph	$35.00
	71 mph through 75 mph	$50.00
	76 mph and over	$75.00
15-321	Speed limit 55-mph zone:	
	56 mph through 65 mph	$25.00
	66 mph through 75 mph	$35.00
	76 mph through 80 mph	$50.00
	81 mph and over	$75.00
15-321	Speed limit-INTERSTATE-55 mph zone:	
	56 mph through 74 mph	$2.00
	per mile over the limit; plus litigation taxes; no other costs	
	75 mph through 80 mph	$30.00
	81 mph and over	$50.00
15-321	Speed limit-INTERSTATE-65 mph zone:	
	66 mph through 74 mph	$2.00
	per mile over the limit; plus litigation taxes; no other costs	
	75 mph through 80 mph	$30.00
	81 mph and over	$50.00
15-321	Speed limit-INTERSTATE-70 mph zone:	
	71 mph through 79 mph	$2.00
	per mile over the limit; plus litigation taxes; no other costs	
	80 mph through 85	$50.00

TRAFFIC VIOLATIONS SCHEDULE OF FORFEITURES

Section Violated	Nature of Violation	Fine Forfeiture
	86 mph and over	$75.00
15-322	Speed limit-school zone--15 mph zone:	
	1 to 10 mph over	$35.00
	11 to 20 mph over	$50.00
	21 to 30 mph over	$75.00
	31 mph or over mandatory	
15-323	Minimum speed regulations	$40.00
15-324	Right-of-way at uncontrolled intersections	$45.00
15-325	Yield intersections	$45.00
15-326	Stop intersections	$45.00
15-327	One-way streets	$40.00
15-328	Turning movements generally	$40.00
15-329	Markings or signs regulating manner of making turns	$40.00
15-330	Prohibited turns	$40.00
15-331	Limitations on turning around	$40.00
15-332	Turning and stopping signals--generally	$40.00
15-333	Turning and stopping signals--manner of giving with hand and arm	$35.00
15-334	Turning and stopping signals--change of direction after signal given	$35.00
15-335	Turning and stopping signals--duty of drivers receiving signal	$35.00
15-336	Right-of-way when vehicle turning left at intersection	$40.00
15-337	Limitations on backing	$35.00
15-338	Procedure upon approach of authorized emergency vehicle	$50.00

TRAFFIC VIOLATIONS SCHEDULE OF FORFEITURES

Section Violated	Nature of Violation	Fine Forfeiture
15-339	Following fire apparatus or driving near fire	$25.00
15-340	Driving over fire hose	$35.00
15-341	Driving in processions	$35.00
15-342	Driving through processions	$35.00
15-343	Striking parked vehicles or fixed objects	$40.00
15-344	Operating vehicle for advertising purposes	$35.00
15-345	Restriction on use of certain streets by trucks, trailers and heavy duty vehicles	$50.00
15-346	Duty to stop at railroad crossing upon approach of train	$50.00
15-401	Obedience to parking signs	$30.00
15-402	Prohibited in specified places	$30.00
15-403	Prohibited zones	$30.00
15-404	Prohibited for certain purposes	$30.00
15-405	Obstructing traffic prohibited	$30.00
15-406	Opening door of parked or standing vehicle	$30.00
15-407	Unattended vehicles	$30.00
15-408	Stopping with left side to curb	$30.00
15-409	Parking vehicles on residential streets	$35.00
15-410	Parking of nonmotorized equipment or vehicles on residential streets	$35.00
15-411	Storage of property on public streets and right-of-way unlawful	$40.00
15-412	Parking in handicapped spaces	$35.00
15-413	Bus stops	$30.00
15-414	Vehicle owner not to permit parking violations	$30.00
15-417	Bicycles--effect on regulations	$30.00

TRAFFIC VIOLATIONS SCHEDULE OF FORFEITURES

Section Violated	Nature of Violation	Fine Forfeiture
15-504	Bicycles--equipment--lights and reflectors	$30.00
15-508	Bicycles--riding on roadways	$30.00
15-509	Bicycles--obedience to traffic control devices	$30.00
15-601	Pedestrians--application of chapter	$30.00
15-602	Pedestrians--use of crosswalks, generally	$30.00
15-603	Pedestrians--when crossing at marked cross-walk required	$30.00
15-604	Pedestrians--right-of-way in crosswalks	$30.00
15-605	Pedestrians--crossing at other than crosswalks	$30.00
15-607	Walking on roadway	$30.00
15-608	Soliciting rides, employment or business	$35.00
15-609	Duty of drivers with regard to pedestrians	$35.00
15-701	Accidents--immediate notice to Arlington Police or sheriff's office	$40.00
15-702	Accidents--garages to report	$40.00
15-804	Improper state registration	$45.00
15-805	Display of registration plates; manner	$35.00
15-901	Brakes generally	$40.00
15-902	Brakes for motorcycles and motorized bicycles	$40.00
15-903	Brakes for trailers and semi-trailers	$50.00
15-904	Service brakes required	$40.00
15-905	Performance ability of brakes	$40.00
15-906	Maintenance and adjustment of brakes	$40.00
15-907	Lights--required on motor vehicles; visibility distance	$40.00

TRAFFIC VIOLATIONS SCHEDULE OF FORFEITURES

Section Violated	Nature of Violation	Fine Forfeiture
15-908	Lights--on vehicles other than motor vehicles; visibility distance	$40.00
15-909	Lights--headlamps on motorcycles	$40.00
15-910	Lights--lamp at end of train of vehicles	$40.00
15-911	Lights--lighting devices and reflectors on vehicles	$35.00
15-912	Lights--headlights on motor vehicles; operation during inclement weather	$35.00
15-913	Muffler required	$35.00
15-914	Muffler cutout prohibited	$35.00
15-915	Horn, bells, sirens or exhaust whistles on emergency vehicles	$45.00
15-916	Windshields and windows	$35.00
15-917	Windshield wipers	$35.00
15-918	Steering mechanism and wheel alignment	$35.00
15-919	Rear view mirrors	$30.00
15-920	Vehicles to be constructed or loaded so as to prevent escape of load	$50.00
15-921	Vehicles so constructed or loaded as to obstruct traffic prohibited	$40.00
15-923	Extension of loads on passenger vehicles	$35.00
15-924	Protruding objects	$40.00
15-925	Ownership identification	$35.00
15-926	Mud flaps on trucks	$50.00
15-927	Operating vehicle equipped with tire in dangerous condition	$35.00
15-928	Unnecessary noise	$40.00
15-1004	Unauthorized signs, signals, etc.	$50.00

TRAFFIC VIOLATIONS SCHEDULE OF FORFEITURES

Section Violated	Nature of Violation	Fine Forfeiture
15-1005	Altering, injuring traffic control device	$75.00
15-1006	Traffic-control signal legend generally	$40.00
15-1007	Flashing signals	$40.00
15-1008	Pedestrian--control signal	$30.00

(2) In addition to the fine forfeiture provided for herein, a court cost, including applicable litigation taxes and fees, shall be assessed and collected for each violation except that certain speeding offenses occurring on the interstate highways shall, in addition to the fine, be assessed litigation taxes and no other court costs.

(3) An officer issuing a summons is authorized to require the charged offender to make a mandatory court appearance. The officer shall note on the summons that a court appearance is mandatory. Where a court appearance is so mandated, no forfeiture may be taken.

(4) The established forfeitures as provided herein may be paid at the general sessions court clerk's office at any time prior to the court date appearing upon any citation or summons issued for a violation of any traffic ordinance except in those instances in which by law or order of court an appearance in court is required. Such payments at the general sessions court clerk's office may be made in person or by mail, or as otherwise provided by law. (Ord. #1997-14, Oct. 1997, as amended by Ord. #1998-20, Aug. 1998, as amended by Ord. #2016-10, Oct. 2016)

15-205. **Court may adopt rule permitting deposit of commercial or operator's license in lieu of bond**. The judges of the general sessions court by rules adopted by them may adopt the provisions of Tennessee Code Annotated, §§ 55-7-401 through 55-7-405 so as to provide for the deposit of a commercial operator's license in lieu of bond or other security. Such court rules when adopted shall be posted in the clerk's office and distributed to the sheriff's/ Arlington office for information and implementation. (Ord. #1997-14, Oct. 1997)

15-206. **Limitation on action for traffic violation; when action deemed commenced; service of summons**. (1) No action shall be commenced by the county in any court for the purpose of enforcing any violation of traffic ordinances of the county or Arlington after one year from the commission of the offense.

(2) For the purpose of this section a court action shall be deemed to be commenced:

(a) Upon the arrest of the offender; or

(b) Upon the issuance of a traffic summons to the offender; or

(c) Upon the issuance of an arrest or bench warrant for the offender; or

(d) Upon the issuance of a summons to the offender.

(3) A summons may be served by:

(a) Personal service on the offender; or

(b) Registered or certified mail, addressee only, return receipt requested. (Ord. #1997-14, Oct. 1997)

15-207. Dismissal, nolle prossing of summons or citation not prohibited. Nothing herein shall prevent the county through the county attorney's office or the attorney general's office from dismissing or nolle prossing any summons or citation in open court. Such summons or citation shall be dismissed if it shall be determined that the citation was issued to a nonresident and is deemed uncollectible, there is a lack of proof, or for such other valid reasons as stated to the court.

CHAPTER 3

OPERATION OF VEHICLES

SECTION

15-301. State license required.
15-302. Duty to devote full time and attention to operating vehicle.
15-303. Duty to drive at safe speed, maintain lookout and keep vehicle under control.
15-304. Driving when view or control obstructed.
15-305. Lap driving.
15-306. Pulling away from curb.
15-307. Emerging from or entering alley, private driveway or building.
15-308. Duty to drive on right side of roadway.
15-309. Passing vehicles proceeding in opposite direction.
15-310. Passing vehicles proceeding in same direction--generally.
15-311. Passing vehicles proceeding in same direction--on right side.
15-312. Passing vehicles proceeding in same direction--duty of driver of overtaken vehicle.
15-313. Overtaking and passing school buses; identification of buses.
15-314. Driving on roadways laned for traffic.
15-315. Driving on divided streets.
15-316. Entering or leaving controlled-access roadway.
15-317. Driving in parks.
15-318. Driving within sidewalk area.
15-319. Obstructing intersection or crosswalk.
15-320. Following too closely.
15-321. General speed restrictions.
15-322. Speed limit in school zone.
15-323. Minimum speed restrictions.
15-324. Right-of-way at uncontrolled intersections.
15-325. Yield intersections.
15-326. Stop intersections.
15-327. One-way streets.
15-328. Turning movements generally.
15-329. Markings or signs regulating manner of making turns.
15-330. Prohibited turns.
15-331. Limitations on turning around.
15-332. Turning and stopping signals--generally.
15-333. Turning and stopping signals--manner of giving with hand and arm.
15-334. Turning and stopping signals--change of direction after signal given.
15-335. Turning and stopping signals--duty of drivers receiving signal.
15-336. Right-of-way when vehicle turning left at intersection.
15-337. Limitations on backing.

15-338. Procedure upon approach of authorized emergency vehicle.
15-339. Following fire apparatus or driving near fire.
15-340. Driving over fire hose.
15-341. Driving in processions.
15-342. Driving through processions.
15-343. Striking parked vehicles or fixed objects.
15-344. Operating vehicle for advertising purposes.
15-345. Restriction on use of certain streets by trucks, trailers and heavy-duty vehicles.
15-346. Duty to stop at railroad crossing upon approach of train.

15-301. State license required. No person shall operate any motor vehicle on any street or highway without having in his procession an operator's license or a chauffeur's license valid under the laws of this state. (Ord. #1997-14, Oct. 1997)

15-302. Duty to devote full time and attention to operating vehicle. It shall be unlawful for a driver of a vehicle to fail to devote full time and attention to operating such vehicle when such failure, under the then existing circumstances, endangers life, limb or property. (Ord. #1997-14, Oct. 1997)

15-303. Duty to drive at safe speed, maintain lookout and keep vehicle under control. Notwithstanding any speed limit or zone in effect at the time, or right-of-way rules that may be applicable, every driver shall:

(1) Operate his vehicle at a safe speed;

(2) Maintain a safe lookout;

(3) Use due care to keep his vehicle under control. (Ord. #1997-14, Oct. 1997)

15-304. Driving when view or control obstructed. (1) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding four (4), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(2) No driver of any bus shall permit his vision ahead or to the sides of his vehicle to be obscured by any passenger standing in the vestibule thereof, nor shall he permit any passenger to interfere with his control over the driving mechanism of the vehicle. (Ord. #1997-14, Oct. 1997)

15-305. Lap driving. No operator of a vehicle shall have in his lap any other person, adult or minor, nor shall the operator be seated in the lap of any person while the vehicle is in motion. (Ord. #1997-14, Oct. 1997)

15-306. Pulling away from curb. No vehicle shall be pulled out or backed from the curb into traffic until such movement may be made without danger to persons or property, and all vehicles proceeding in a street or highway shall have the right-of-way over all vehicles pulling from a curb into traffic. (Ord. #1997-14, Oct. 1997)

15-307. Emerging from or entering alley, private driveway or building. The driver of a vehicle entering into a street or highway, either from an alley or from a private road, driveway or building, shall yield the right-of-way to all pedestrians on a sidewalk crossing such alley or driveway and to all vehicles approaching on such street or highway, and it shall be the duty of the driver of every vehicle so entering a street or highway to bring his vehicle to a stop and not enter therein until same may be done with safety and without danger to others using the street or highway, and he shall proceed with caution. The driver of any vehicle leaving a street or highway to enter an alley, private driveway or building, shall likewise yield the right-of-way to all pedestrians on any sidewalk crossing such alley or driveway, and when such driver is making a left turn into an alley, private driveway or building, such driver shall yield the right-of-way to all vehicles approaching from the opposite direction. (Ord. #1997-14, Oct. 1997)

15-308. Duty to drive on right side of roadway. (1) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.

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

(c) Upon a roadway designated and sign posted for one-way traffic.

(d) Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon.

(2) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or 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 at an intersection or into a private road or driveway. (Ord. #1997-14, Oct. 1997)

15-309. Passing vehicles proceeding in opposite direction. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the

main-traveled portion of the roadway as nearly as possible. (Ord. #1997-14, Oct. 1997)

15-310. Passing vehicles proceeding in same direction—generally.

(1) Except as otherwise provided in § 15-311, the driver of a vehicle overtaking 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 roadway until safely clear of the overtaken vehicle.

(2) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction, unless such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right hand side of the roadway before coming within one hundred (100) feet of any vehicle approaching from the opposite direction.

(3) No vehicle shall be driven to the left of the center of any street for the purpose of passing another vehicle when approaching within one hundred (100) feet of any intersection or while traversing any intersection or railroad grade crossing. This subsection shall not apply to one-way streets or to streets where special signs or markings permit driving to the left of the center.

(4) No vehicle shall be driven to the left of the center of the roadway upon any street of sufficient width for two (2) or more lines of moving vehicles in each direction, except when the right half of the roadway is obstructed, and then such movement shall be made in safety in accordance with this section. (Ord. #1997-14, Oct. 1997)

15-311. Passing vehicles proceeding in same direction—on right side. (1) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn.

(b) Upon a street with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction when traffic is moving in two (2) or more substantially continuous lines in direction of travel.

(c) Upon a one-way street or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.

(2) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event

shall such movement be made by driving off the pavement or main-traveled portion of the roadway. (Ord. #1997-14, Oct. 1997)

15-312. <u>Passing vehicles proceeding in same direction—duty of driver of overtaken vehicle</u>. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. (Ord. #1997-14, Oct. 1997)

15-313. <u>Overtaking and passing school buses; identification of buses</u>. (1) The driver of a motor vehicle upon meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging any school children shall stop the motor vehicle before reaching such school bus, and such driver shall not proceed until such bus resumes motion or is signaled by the school bus driver to proceed or the visual signals are no longer actuated.

(2) All motor vehicles used in transporting school children to and from school are required to be distinctly marked "School Bus" on the front and rear thereof in letters of not less than six (6) inches in height, and so plainly written or printed and so arranged as to be legible to persons approaching such school bus, whether traveling in the same or opposite direction.

(3) The driver of a vehicle upon a street or highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(4) For the purpose of this section, "separate roadways" shall mean roadways divided by an intervening space which is not suitable to vehicular traffic.

(5) Except as otherwise provided by the preceding subsections, the school bus driver is required to stop such school bus on the right-hand side of a street or highway, and such driver shall cause the bus to remain stationary and the visual stop signs on the bus to be actuated until all school children who should be discharged from the bus have been so discharged and until all children whose destination causes them to cross the street or highway at that place have negotiated such crossing.

(6) Any person failing to comply with the requirements of this section, requiring motor vehicles to stop upon approaching school buses, or violating any of the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to punishment as provided by law. (Ord. #1997-14, Oct. 1997)

15-314. Driving on roadways laned for traffic. Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules, in addition to all others consistent herewith, shall apply:

(1) A vehicle shall be driven entirely within a single lane and shall not be moved from such lane until the driver has ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into three (3) lanes, a vehicle shall not be driven in the center lane, except where overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign posted to give notice of such allocation.

(3) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign. (Ord. #1997-14, Oct. 1997)

15-315. Driving on divided streets. Whenever any street or highway has been divided longitudinally into two (2) roadways by leaving an intervening space, such as a parkway, wall, sunken way, viaduct or traffic-guide, every vehicle shall be driven to the right of the longitudinal division. No vehicle shall be driven across, over or within such divided space or section, except through an opening in such physical barrier or divided section or space, or at a crossover or intersection established by the county or state. This section shall not prohibit a driver from making a left turn into a private driveway where such turn is permitted and where such turn would require the driver to drive across a center dividing strip of the corrugated concrete type which does not constitute a physical barrier. (Ord. #1997-14, Oct. 1997)

15-316. Entering or leaving controlled-access roadway. No person shall drive a vehicle onto or from any controlled access roadway except at such entrances and exits as are established by the county or state. (Ord. #1997-14, Oct. 1997)

15-317. Driving in parks. All traffic regulations set forth in this chapter shall apply to all drives and all roadways within all public parks; provided, however, that, no person shall use the driveways in public parks by driving over such driveways in vehicles other than passenger vehicles, motorcycles, motor-driven cycles, bicycles and persons mounted on horseback. The use of all bridle paths is prohibited to all traffic other than to persons on horseback and pedestrians. (Ord. #1997-14, Oct. 1997)

15-318. Driving within sidewalk area. The operator of a motor vehicle shall not drive within any sidewalk area except in crossing such in a traverse manner at a permanent or temporary driveway. (Ord. #1997-14, Oct. 1997)

15-319. Obstructing intersection or crosswalk. No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal to proceed. (Ord. #1997-14, Oct. 1997)

15-320. Following too closely. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the street or highway. (Ord. #1997-14, Oct. 1997)

15-321. General speed restrictions. It shall be unlawful for any person to drive a vehicle upon the streets or highways of this town at a speed greater than that which is posted by the town, county or state. (Ord. #1997-14, Oct. 1997)

15-322. Speed limit in school zone. No vehicle shall be driven at a greater rate of speed than fifteen (15) miles per hour on that portion of any street which has been designated as a school zone by official signs, during any time when school children are on the streets or sidewalks within such school zone, either en route to or returning from school or while school safety patrols or officers are on duty. Such school zones shall be confined to such portions of the streets adjacent to school grounds, or for a distance not to exceed seven hundred fifty (750) feet beyond the boundaries of such grounds. (Ord. #1997-14, Oct. 1997)

15-323. Minimum speed restrictions. No person shall drive a motor vehicle upon any street or highway at such a slow speed as to impede the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with the law. (Ord. #1997-14, Oct. 1997)

15-324. Right-of-way at uncontrolled intersections. The driver of a vehicle approaching an intersection not controlled by a traffic sign or signal shall yield the right-of-way to a vehicle which has entered the intersection from a different street or highway. When two (2) vehicles enter an uncontrolled intersection from different streets or highways at approximately the same time, the drive of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. (Ord. #1997-14, Oct. 1997)

15-325. **Yield intersections**. Whenever a "yield right-of-way" sign has been placed at or near an intersection, all drivers approaching such sign shall proceed with caution, slowing down or stopping if necessary so as not to interfere with traffic moving on the intersecting streets and such drivers shall not proceed into the intersecting street until such movement can be made with safety. (Ord. #1997-14, Oct. 1997)

15-326. **Stop intersections**. (1) Conduct generally. (a) When official stop signs are erected at or near the entrance to any intersection, every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection except when directed to proceed by an officer or traffic-control signal.

(b) Every driver who has stopped his vehicle at a stop sign in compliance with this section shall remain stopped and shall not proceed into or through the intersecting street until such movement can be made in safety. Such driver shall yield the right-of-way to all vehicles moving in a lawful manner upon the intersecting street.

(2) Multiway stop intersections. (a) When official stop signs are erected at or near the entrances to any intersection creating a multiway stop intersection, the driver of a vehicle approaching such a stop sign, shall stop before entering the crosswalk on the near side of the intersections, or, in the event 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 except when directed to proceed by an officer or traffic-control signal.

(b) The first vehicle approaching and stopping at a multiway stop intersection, after stopping, shall have the right-of-way to proceed into and through the intersection. Each succeeding vehicle approaching must stop at such intersection, and after stopping and yielding to the preceding vehicle, shall then have the right-of-way to proceed into and through the intersection.

(c) Each driver of a vehicle approaching and entering any multiway stop intersection must use reasonable and ordinary care in proceeding through the intersection. (Ord. #1997-14, Oct. 1997)

15-327. **One-way streets**. The town is hereby authorized to designate, by signs or markers, certain streets and alleys for traffic in only one direction where the conditions of traffic, width of street and other conditions make such restrictions necessary. Whenever a street or alley has been so designated s

one-way, no person shall drive a vehicle upon such a street in any direction other than that indicated by signs. (Ord. #1997-14, Oct. 1997)

15-328. Turning movements generally. (1) No person shall turn a vehicle at an intersection, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety.

(2) The driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) Right turns. Except as otherwise indicted by directional markings placed in conformity with provisions of this chapter, both the approach for a right turn and right turn shall be made as close as practicable to the right-hand curb or edge of the street.

(b) 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 lane 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.

(c) 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 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.

(3) The driver of any truck, bus or any large vehicle which cannot comply with the foregoing provisions due to the size of the vehicle may use such additional portions of the street or roadway as may be necessary for a right turn; provided, however, that, the driver of such vehicle, before making such turn, shall first determine that this movement may be made in safety. (Ord. #1997-14, Oct. 1997)

15-329. Markings or signs regulating manner of making turns. The town may cause markings or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in § 15-327 be traveled by vehicles turning at an intersection, and when markings or signs are so placed, no driver of a vehicle shall turn a vehicle

at an intersection other than as directed and required by such markings or signs. (Ord. #1997-14, Oct. 1997)

15-330. Prohibited turns. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such sign. (Ord. #1997-14, Oct. 1997)

15-331. Limitations on turning around. No driver of any vehicle shall make a u-turn (reverse direction) upon any street or highway except at locations designated by the town with authorized signs and such movement shall not be made unless the same can be made in safety and without interfering with other traffic. (Ord. #1997-14, Oct. 1997)

15-332. Turning and stopping signals—generally. The driver of any vehicle who intends to stop or 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 an appropriate signal, plainly visible to the driver of such other vehicle, of his intention to make such movement. Such signal shall be given continuously for a distance of at least fifty (50) feet before slowing down, stopping, turning, partly turning or materially altering the course of the vehicle. The signal herein required shall be given by means of the hand and arm or by some mechanical or electrical device approved by the state department of safety. (Ord. #1997-14, Oct. 1997)

15-333. Turning and stopping signals—manner of giving with hand and arm. Whenever the signal required by § 15-332 is given by means of the hand and arm, the driver shall indicate his intention to stop or turn, or partly turn, by extending the hand and arm from and beyond the left side of the vehicle, in the following manner:

(1) Left turn. For a left turn, or to pull to the left, the arm shall be extended in a horizontal position straight from and level with the shoulder.

(2) Right turn. For a right turn, or pull to the right, the arm shall be extended upward.

(3) Slowing down or stopping. For slowing down or to stop, the arm shall be extended downward. (Ord. #1997-14, Oct. 1997)

15-334. Turning and stopping signals—change of direction after signal given. Drivers having once given a hand, electrical or mechanical device signal must continue the course thus indicated, unless they alter the original signal and take care that the drivers of the vehicles and pedestrians have seen and are aware of the change. (Ord. #1997-14, Oct. 1997)

15-335. Turning and stopping signals—duty of drivers receiving signal. Drivers receiving a signal from another driver shall keep their vehicles

under complete control and shall be able to avoid an accident resulting from a misunderstanding of such signal. (Ord. #1997-14, Oct. 1997)

15-336. **Right-of-way when vehicle turning left at intersection**. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but such driver, having so yielded and having given a signal when and as required by this section, may make such left turn and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn. (Ord. #1997-14, Oct. 1997)

15-337. **Limitations on backing**. 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. (Ord. #1997-14, Oct. 1997)

15-338. **Procedure upon approach of authorized emergency vehicle**. (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 the state, or of a law enforcement vehicle properly and lawfully making use of a visible or 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 an officer.

(2) This section shall not operate to relieve the driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the street. (Ord. #1997-14, Oct. 1997)

15-339. **Following fire apparatus or driving near fire**. The driver of a vehicle, other than one on official business, shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (Ord. #1997-14, Oct. 1997)

15-340. **Driving over fire hose**. No vehicle shall be driven over any unprotected hose of the fire division when laid down on any street, highway, or private driveway to be used at any fire or alarm of fire, without the consent of the fire division official in command. (Ord. #1997-14, Oct. 1997)

15-341. **Driving in processions**. (1) Each driver in a funeral or other authorized procession shall drive as near the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

(2) Each driver of a vehicle in a funeral procession shall cause the lights on his vehicle to be lighted during the entire procession as a means of identifying the vehicle in the procession.

(3) A funeral or other authorized procession shall be permitted to proceed through a red light at an intersection when an officer in charge of the intersection or procession so directs and the procession shall continue moving and cross-traffic shall stop until the entire procession has passed such signal. (Ord. #1997-14, Oct. 1997)

15-342. **Driving through processions**. 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; provided, however, that this rule shall not apply to emergency vehicles answering emergency calls. (Ord. #1997-14, Oct. 1997)

15-343. **Striking parked vehicles or fixed objects**. It shall be unlawful for the driver of any vehicle while operating such vehicle on a public street, highway, or alley to drive such vehicle into, against or upon a parked vehicle or fixed object thereon. (Ord. #1997-14, Oct. 1997)

15-344. **Operating vehicle for advertising purposes**. No person shall operate or park on any street or highway any vehicle for the primary purpose of advertising unless authorized by the chief of police. (Ord. #1997-14, Oct. 1997)

15-345. **Restriction on use of certain streets by trucks, trailers and heavy-duty vehicles**. Trucks, trailers or heavy-duty vehicles shall not be allowed on any street or highway which the town may designate by appropriate official sign indicating that such street is so restricted, except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street or highway at the intersection nearest the destination of the vehicle and proceeding thereon further than the nearest intersection thereafter; provided further, however, that, the town is hereby authorized to grant a permit to the operator of the vehicle to be driven on such street for a greater distance where urgent necessity requires it. This section shall apply only to vehicles of weight capacity of over one ton, excluding recreational vehicles, emergency vehicles, school buses and Memphis Area Transit Authority vehicles on designated routes. (Ord. #1997-14, Oct. 1997)

15-346. **Duty to stop at railroad crossing upon approach of train**. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the following circumstances, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of

such railroad, and shall not proceed until he 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 flagman 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 (1,500) feet of the street crossing emits a signal audible from such distance, or when such railroad train, by reason of its speed or nearness to such crossing is an immediate hazard.

(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. (Ord. #1997-14, Oct. 1997)

CHAPTER 4

STOPPING, STANDING AND PARKING

SECTION

15-401. Obedience to parking signs.
15-402. Prohibited in specific places.
15-403. Authority to create and designate tow away zones; parking in zones; enforcement.
15-404. Prohibited for certain purposes.
15-405. Obstructing traffic prohibited.
15-406. Opening door of parked or standing vehicle.
15-407. Unattended vehicles.
15-408. Stopping with left side to curb.
15-409. Parking vehicles on residential streets.
15-410. Parking of nonmotorized equipment or vehicles on residential streets.
15-411. Storage of property on public streets and right-of-way unlawful.
15-412. Parking in handicapped spaces.
15-413. Bus stops.
15-414. Vehicle owner not to permit parking violations.
15-415. Duty of Arlington Police Department or sheriff's office relative to illegally parked vehicles; ticket for parking violations.
15-416. Presumption in prosecutions for parking violations.
15-417. Impounding vehicles obstructing street.

15-401. Obedience to parking signs. The owner or operator of any vehicle shall obey the instructions of any official parking sign applicable thereto placed in accordance with this chapter, and other traffic ordinances of the town, unless otherwise directed by an officer or deputy. (Ord. #1997-14, Oct. 1997)

15-402. Prohibited in specified places. (1) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the direction of an officer, deputy, or traffic-control device, in any of the following places:

(a) On a sidewalk or between the curb and an adjacent sidewalk;

(b) More than twelve (12) inches from the curb;

(c) In front of a public or private driveway;

(d) Within an intersection;

(e) Within fifteen (15) feet of a fire hydrant;

(f) On a crosswalk;

(g) Within twenty (20) feet of a crosswalk at an intersection, unless otherwise designated by markers or parking meters;

(h) Within thirty (30) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;

(i) Within fifty (50) feet of the nearest rail of a railroad crossing;

(j) Within twenty (20) feet of the driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within seventy-five (75) feet of such entrance, when properly sign posted;

(k) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(l) On the roadway side of any vehicle stopped or parked at the edge or curb of a street or highway;

(m) Upon any bridge or other elevated structure upon a street or highway or within a street or highway tunnel;

(n) Any place where official signs prohibit parking;

(o) So as to obstruct access to any United States mailbox;

(p) On any part of the interstate highway system; except that vehicles may be left on the portion of the interstate not intended for travel for a period of four (4) hours if a note is attached thereto or the hood of such vehicle is left raised indicting that an emergency situation necessitated the vehicle being left in this location;

(q) In any part of any designated fire lane.

(2) No person shall move a vehicle not owned by such person into any such prohibited area or away from a curb such distance as is unlawful. (Ord. #1997-14, Oct. 1997)

15-403. Authority to create and designate tow-away zones; parking in zones; enforcement. (1) The town is hereby authorized to create and designate certain portions of public streets or highways as tow-away zones.

(2) It shall be unlawful for any person to park a vehicle within such designated areas, except as otherwise provided by law.

(3) Any vehicle parked within said zones shall be subject to removal by the town and/or sheriff's office at the expense and risk of the owner of said vehicle.

(4) § 15-802 of this municipal code shall be applicable with respect to the presumption of ownership. (Ord. #1997-14, Oct. 1997)

15-404. Prohibited for certain purposes. No person shall stand or park a vehicle upon any roadway for the principal purpose of:

(1) Displaying it for sale or rent;

(2) Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency. (Ord. #1997-14, Oct. 1997)

15-405. Obstructing traffic prohibited. (1) No driver shall stop, stand or park a vehicle abreast of another vehicle parallel to the curb or in any other manner so as to interrupt or interfere with the passage of other vehicles on any street or highway except in the case of public emergency or when directed by an officer or deputy.

(2) It shall be unlawful to leave any vehicle standing in any street or highway when such vehicle constitutes a hazard to public safety or an obstruction to traffic. (Ord. #1997-14, Oct. 1997)

15-406. Opening door of parked or standing vehicle. Whenever any vehicle is standing or parked upon or beside a roadway, no person shall open any door of such vehicle on that side of the vehicle nearest the flow of traffic on such street or highway, whenever the opening of such door shall constitute a hazard or obstruction to vehicles moving on the street in a lawful manner. (Ord. #1997-14, Oct. 1997)

15-407. Unattended vehicles. (1) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the roadway.

(2) The portion of this section pertaining to the locking of or removal of keys from the vehicle shall not apply when a vehicle is parked upon an "off-street parking facility" where an attendant is present.

(3) It shall be the duty of every person driving or in charge of any vehicle, when parking or stopping such vehicle, to secure such vehicle so that it shall not roll unattended into or upon any public street, highway, or alley. (Ord. #1997-14, Oct. 1997)

15-408. Stopping with left side to curb. No vehicle shall stop with its left side to the curb; provided, however, that, this prohibition shall not apply to one-way streets when such stopping has been authorized by the town and is not prohibited. (Ord. #1997-14, Oct. 1997)

15-409. Parking vehicles on residential streets. (1) It shall be unlawful for any person to park, or knowingly permit, any vehicle as defined in this chapter, on any residential street for a period of time longer than twenty-four (24) hours consecutively.

(2) No truck, truck trailer, or tractor or bus, as defined in this chapter, and having declared maximum gross vehicle weight rating of more than eight thousand (8,000) pounds shall be parked or left unattended on any residential street, except when actively being loaded or unloaded, or while such vehicle is being used in connection with any work or service being performed on adjacent property.

(3) No recreation vehicle shall be parked or left unattended on any residential street or in any residential district, except while actively being loaded or unloaded.

(4) The chief of police and/or sheriff is authorized to remove any vehicle found parked in violation of this section when such vehicle constitutes a traffic hazard or obstruction of traffic. Such vehicle may be impounded by the Arlington Police Department or the sheriff's office in accordance with the provisions of § 15-417 of this chapter.

(5) Any violation of this section shall be penalized pursuant to the provisions of § 15-201 herein. (Ord. #1997-14, Oct. 1997)

15-410. Parking of nonmotorized equipment or vehicles on residential streets. (1) It shall be unlawful for any person to park or knowingly permit any nonmotorized vehicle or equipment, such as, but not limited to, campers, trailers, boats, or other recreational type equipment, on any residential street.

(2) Such nonmotorized vehicles or equipment may be removed by the Arlington Police Department or the sheriff's office in accordance with the provisions of § 15-417 relating to the impounding of vehicles obstructing the streets. (Ord. #1997-14, Oct. 1997)

15-411. Storage of property on public streets and right-of-way unlawful. (1) It shall be unlawful for any person to use a public street, highway, or public right-of-way along said street or highway, for the purpose of storing any item, except where otherwise lawfully provided.

(2) "Storage" is defined, for the purposes of this section, as the placing of any property in such public street, highway, or right-of-way in such a manner as to preclude the use of such street, highway, or right-of-way by the general public or the normal flow of vehicular or pedestrian traffic. (Ord. #1997-14, Oct. 1997)

15-412. Parking in handicapped spaces. No person shall stop, stand, or park a vehicle in a parking space clearly designated as being reserved for the physically handicapped, as provided for in Tennessee Code Annotated, §§ 55-21-104 and 105, unless the person driving the vehicle is physically handicapped or parking such vehicle for the benefit of a physically handicapped passenger. A vehicle parking in such space shall display a distinguishing placard, license plate, disabled veterans' license plate, or distress flag or card, under the provisions of Tennessee Code Annotated, title 55, chapter 21. A person who parks a vehicle in violation of this section shall be subject to a fine of not more than fifty dollars ($50.00). This section shall be enforceable on public property or on private property where a business, firm, or other person transacting business with the public from a permanent location has provided specially marked parking spaces for the exclusive use of handicapped drivers or

passengers, as set forth in Tennessee Code Annotated, title 55, chapter 21. (Ord. #1997-14, Oct. 1997)

15-413. Bus stops. (1) The operator of a bus shall not stop, stand or park such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage, other than at a coach stop designated by the town, except in case of an emergency.

(2) The operator of a bus shall enter a coach stop on a public street or highway in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(3) No person shall stop, stand or park a vehicle other than a bus in a coach stop, when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus waiting to enter or about to enter such stop. (Ord. #1997-14, Oct. 1997)

15-414. Vehicle owner not to permit parking violations. It shall be unlawful for any person to cause, allow, permit or suffer any vehicle registered in the name of such person to be parked in such manner as to violate the terms and provisions of this chapter. (Ord. #1997-14, Oct. 1997)

15-415. Duty of Arlington Police Department or sheriff's office relative to illegally parked vehicles; ticket for parking violations. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this chapter or by state law, the officer or deputy finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation ticket, on a form provided by the county, for the driver to answer to the charge against him within fifteen (15) days, during the hours and at a place specified on the ticket. (Ord. #1997-14, Oct. 1997)

15-416. Presumption in prosecutions for parking violations.

(1) In any prosecution charging a violation of any provision of this chapter or other law or regulation governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who

parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

(2) This presumption shall not apply in instances where the vehicle involved was rented or leased. In these instances, the sworn statement of the lessor or renter that the person named in the statement was, at the time of such parking, the person to whom such vehicle was rented or leased, shall constitute in evidence a prima facie presumption that the person to whom the vehicle at the point where, and for the time during which, such traffic violation occurred. (Ord. #1997-14, Oct. 1997)

15-417. Impounding vehicles obstructing street. (1) In order to remove all obstructions and to provide free use of the streets, highways, and alleys for the police, fire and sheriff's office and for the public, whenever a motor vehicle is wrecked or abandoned in the street, highway or alley, or is found parked in violation of any of the provisions of this chapter, and it becomes necessary, in the opinion of the Arlington Police Department or sheriff's office, to remove such vehicle for the roadway as an obstruction, such vehicle shall be towed or driven to a designated place or storage and stored until the owner claims the vehicle and gives satisfactory evidence of ownership. The sheriff's office is authorized to advertise for bids and to enter into a contract with a garage or storage company for fixed charges for pulling in and storing such vehicles and to provide by such contract that the garage or storage company shall look to the owner of the vehicle so pulled in or stored for the stipulated compensation.

(2) Where the Arlington Police Department or sheriff's office elects to pull in and store such vehicle a charge shall be made therefor as follows:

(a) For pulling same in $85.00

(b) For storing same, per day $10.00

For the purpose of fixing these charges, a day shall begin at 12:01 A.M. (Ord. #1997-14, Oct. 1997)

CHAPTER 5

BICYCLES

SECTION

15-501. Effect of regulations.
15-502. Traffic laws apply to persons riding bicycles.
15-503. Removal, alteration, etc. of serial number.
15-504. Equipment--lights and reflectors.
15-505. Equipment--brake.
15-506. Equipment--bell or other signal device.
15-507. Use of permanent seat required, carrying excess persons forbidden.
15-508. Riding on roadways.
15-509. Obedience to traffic-control devices.
15-510. Riding on sidewalks.
15-511. To be ridden in single file.
15-512. Clinging to moving vehicles.
15-513. Towing other vehicles.
15-514. Acrobatic and unicycle riding.

15-501. Effect of regulations. (1) It is an offense for any person to do any act forbidden or fail to perform any act required in this chapter.

(2) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any provisions of this chapter.

(3) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein. (Ord. #1997-14, Oct. 1997)

15-502. Traffic laws apply to persons riding bicycles. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of the vehicle by this chapter, except as to special regulations in this chapter and except as to those provisions of this chapter which by their nature can have no application. (Ord. #1997-14, Oct. 1997)

15-503. Removal, alteration, etc. of serial number. It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the serial number of any bicycle frame registered pursuant to this chapter. (Ord. #1997-14, Oct. 1997)

15-504. Equipment—lights and reflectors. (1) Every bicycle, when in use during hours of darkness, shall be equipped with a forward-facing light

upon the front which shall emit a white light visible from a distance of at least five hundred (500) feet, and with a rearward-facing red reflector upon the rear which shall be visible from one hundred (100) feet to six hundred (600) feet when directly in front of lawful lower beams of headlight or headlamps on a motor vehicle. A light emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

(2) All new bicycles purchased after July 1, 1975, shall, and all others should, also be equipped with a forward-facing white reflector; and sideward-facing amber reflectors on the front and sideward facing red reflectors on the rear; and amber reflectors on front and rear sides of each food pedal.

(3) Bicycles which are ridden in the streets or highways are recommended to use safety visibility pennants. (Ord. #1997-14, Oct. 1997)

15-505. Equipment—brake. Every bicycle, when operated upon streets or roadways in the town, shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement. Such brake shall be maintained in good working order at all times. (Ord. #1997-14, Oct. 1997)

15-506. Equipment--bell or other signal device. No person shall operate a bicycle on any street or roadway unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred (100) feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle. (Ord. #1997-14, Oct. 1997)

15-507. Use of permanent seat required, carrying excess persons forbidden. (1) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(2) No bicycle shall be used at any time to carry more persons than the number for which it has been equipped per person in terms of seats and handlebars, with the exception of properly installed child carriers with hand and foot protection. (Ord. #1997-14, Oct. 1997)

15-508. Riding on roadways. (1) Every person operating a bicycle upon a roadway, excluding sidewalks, shall ride in the same direction as motor-driven traffic and shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(2) No person shall operate a bicycle on any part of any roadway where official signs have been erected and are in place indicating the prohibition of such activity. (Ord. #1997-14, Oct. 1997)

15-509. Obedience to traffic-control devices. (1) Any person operating a bicycle should dismount and walk his bicycle as a pedestrian across

an intersection when traffic-control signals are in operation to regulate the flow of traffic.

(2) Any person operating a bicycle shall obey the instructions of all official traffic-control devices applicable to vehicles, such as "stop" signs, unless otherwise directed by an officer or deputy. (Ord. #1997-14, Oct. 1997)

15-510. Riding on sidewalks. (1) Any person may operate a bicycle on a sidewalk except where official signs have been erected and are in place indicating the prohibition of such activity.

(2) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian or operator of sidewalk-type vehicles, such as tricycles, and shall give an audible signal before overtaking and passing such pedestrian or operator. (Ord. #1997-14, Oct. 1997)

15-511. To be ridden in single file. Every person, when operating a bicycle upon the streets or roadways in the town, shall ride such bicycle in single file only and at no time shall bicycles be operated two (2) or more abreast. (Ord. #1997-14, Oct. 1997)

15-512. Clinging to moving vehicles. It shall be unlawful for any person riding upon a bicycle to cling or attach himself or his bicycle to any other moving vehicle upon a street or roadway. (Ord. #1997-14, Oct. 1997)

15-513. Towing other vehicles. The operator of a bicycle shall not tow or draw any coaster, sled, person on roller skates, toy vehicles or similar vehicle. (Ord. #1997-14, Oct. 1997)

15-514. Acrobatic and unicycle riding. (1) No person shall remove both hands from the handlebars or both feet from the pedals of a bicycle while riding on any roadway or sidewalk. Acrobatic or fancy bicycle riding in roadways or on sidewalks is prohibited.

(2) A unicycle (one-wheeled) device shall not be ridden in the roadway, but may be operated upon a sidewalk, except as where otherwise lawfully provided. (Ord. #1997-14, Oct. 1997)

CHAPTER 6

PEDESTRIANS

SECTION

15-601. Application.
15-602. Use of crosswalk, generally.
15-603. When crossing at marked crosswalk required.
15-604. Right-of-way in crosswalks.
15-605. Crossing at other than crosswalks.
15-606. Pedestrian tunnels or overhead crossings.
15-607. Walking on roadways.
15-608. Soliciting rides, employment or business.
15-609. Duty of drivers with regard to pedestrians.

15-601. Application. Pedestrians shall be subject to traffic-control signals at intersections as provided for this chapter, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions as hereinafter stated. (Ord. #1997-14, Oct. 1997)

15-602. Use of crosswalk, generally. Whenever there is a marked crosswalk, all pedestrians in crossing at such crosswalk shall stay within the markings or lines, and whenever practicable such pedestrian shall walk on the right half of the crosswalk. (Ord. #1997-14, Oct. 1997)

15-603. When crossing at marked crosswalk required. Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk. (Ord. #1997-14, Oct. 1997)

15-604. Right-of-way in crosswalks. (1) When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle, which is so close that is impossible for the driver to yield.

(2) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (Ord. #1997-14, Oct. 1997)

15-605. **Crossing at other than crosswalks**. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway. (Ord. #1997-14, Oct. 1997)

15-606. **Pedestrian tunnels or overhead crossings**. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway. (Ord. #1997-14, Oct. 1997)

15-607. **Walking on roadways**. (1) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(2) Where sidewalks are not provided, any pedestrian walking along and upon a roadway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. (Ord. #1997-14, Oct. 1997)

15-608. **Soliciting rides, employment or business**. No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle. (Ord. #1997-14, Oct. 1997)

15-609. **Duty of drivers with regard to pedestrians**. Notwithstanding the provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall exercise proper precaution upon observing any child or confused or incapacitated person upon a roadway. (Ord. #1997-14, Oct. 1997)

CHAPTER 7

ACCIDENTS

SECTION

15-701. Immediate notice to Arlington Police Department or sheriff's office.
15-702. Garages to report.

15-701. Immediate notice to Arlington Police Department or sheriff's office. The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage in any apparent extent of four hundred dollars ($400.00) or more shall immediately, by the quickest means of communication, give notice of such accident to the Arlington Police Department or sheriff's office. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required by this section, and there was another occupant in the vehicle at the time of the accident capable of doing so, or whenever the driver is not the owner of the vehicle, such occupant or the owner shall make or cause to be given the notice not given by the driver. (Ord. #1997-14, Oct. 1997)

15-702. Garages to report. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident or struck by any bullet, shall report the facts immediately to the Arlington Police Department or sheriff's office after such motor vehicle is received, giving the license number, the engine number and the name and address of the owner or operator of such vehicle. Compliance with this section shall not relieve the driver of any vehicle involved in an accident from complying with § 15-701. (Ord. #1997-14, Oct. 1997)

CHAPTER 8

REGISTRATION OF VEHICLES

SECTION
15-801. Definitions.
15-802. Person required to register motor vehicles; exceptions.
15-803. Deleted.
15-804. Registration required; penalty.
15-805. Display of registration plates; manner.

15-801. Definitions. The following definitions shall apply to this chapter:

(1) "Motorcycle." A motor vehicle having a saddle for the use of a rider and designed to travel on not more than three (3) wheels in contact with the ground, not including any (3) wheel vehicle designed for off-road use and only incidentally on the roadways.

(2) "Motor vehicle." Any device self-propelled in, upon or by which a person or property is transported or drawn upon the streets, highways, or the public ways of the town except a motorcycle or special mobile equipment.

(3) "Owner." The person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof, with the right of purchase upon performance of the condition stated in the agreement, and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter; provided that every agent, servant, or employee operating the vehicle for the owner shall also be defined as owner if the owner, whether a natural person, firm, copartnership, association or corporation, has failed to comply with this division, and such agent, servant or employee shall be required to comply with the registration of the vehicle which he is operating, and the owner so designates the agent, servant or employee for this purpose as representing him by his use of the streets or highways of the town.

(4) "Person." Includes every natural person, firm, copartnership, association or corporation and shall be synonymous with the "owner" as defined herein and may be used interchangeably.

(5) "Special mobile equipment." Any vehicle not designed or used primarily for the transportation of personal property and incidentally operated or moved over the streets or other public ways, such equipment including, but not limited to, farm tractors, self-propelled farm machines, and all-terrain vehicles (ATV's). (Ord. #1997-14, Oct. 1997)

15-802. Person required to register motor vehicles; exceptions.

(1) All residents of the town operating any motor vehicle or motorcycle shall register their motor vehicles and motorcycles with the county clerk's office as required by law during the dates prescribed by the state in Tennessee Code Annotated, title 55, chapters 1 through 6, as presently enacted or hereafter amended, for the original or renewal of state registration of motor vehicles or motorcycles or within five (5) days after the acquisition of any such vehicle.

(2) Exceptions to the registration requirement are the following:

(a) Vehicles owned by governmental agencies, that is, the United States government, state, county and municipal governments, which have a state motor vehicle registration plate designating them as such, are not required to register with the county.

(b) A handicapped or disabled veteran, or former prisoner-of-war, who is a permanent resident of the town and who qualifies under Tennessee Code Annotated, § 55-4-201, et seq.

(c) A resident of the state, and permanent resident of the county who is a recipient of the Congressional Medal of Honor and as qualified in Tennessee Code Annotated, § 55-4-236.

(d) A handicapped person who is permanently and totally confined to a wheelchair when so certified by a physician's statement, and other qualifications as defined in Tennessee Code Annotated, §§ 55-21-102 and 55-21-103 and is a permanent resident of the county.

(e) An active duty military serviceman or woman.

(f) Any motor vehicle or motorcycle classified as an antique vehicle under Tennessee Code Annotated, title 55.

(g) Any semi-trailer, utility trailer, or non-motorized mobile home.

(h) One motor vehicle and one motorcycle owned by a rural volunteer fireman permanently residing in this county.

(i) Any vehicle owned by an active member of the Tennessee National Guard and licensed pursuant to Tennessee Code Annotated, § 55-4-228.

(j) Any other exceptions allowable under Tennessee Code Annotated, title 55, which would be applicable to the county. (Ord. #1997-14, Oct. 1997)

15-803. Deleted. (Ord. #1997-14, Oct. 1997, as deleted by Ord. #2016-10, Oct. 2016)

15-804. Registration required; penalty. (1) No vehicle required to be registered under Tennessee Code Annotated, title 55, chapters 1 through 6, shall be operated upon any street or public roadway in the Town of Arlington unless there shall be attached thereto and displayed thereon when and as required by Tennessee Code Annotated, title 55, chapters 1 through 6, a valid

and outstanding registration plate or plates issued therefor to the owner thereof for the current registration year, or a registration plate or plates issued to the owner thereof with the proper tabs, stickers, or other device attached or affixed thereto indicating a valid renewal of such registration plate or plates. Violation of these requirement by the owner or operator thereof shall be an offense punishable by a fine of not more than fifty dollars ($50.00).

(2) Any owner or operator of a vehicle who fails or refuses to display the certificate of registration therefor and in the case of a freight vehicle refusing to submit the vehicle and load for a weighing when directed by an officer of the law shall be guilty of an offense punishable as provided in § 15-201 of this municipal code. (Ord. #1997-14, Oct. 1997)

15-805. Display of registration plates; manner. Registration plates issued for motor vehicles shall be attached in compliance with state law. The registration plate issued for a truck shall be attached to the rear of the vehicle. The registration plate for a truck trailer shall be attached to the front of the vehicle. The registration plate issued for a motorcycle, trailer, semi-trailer, or dealer's plate shall be attached to the rear of the vehicle. (Ord. #1997-14, Oct. 1997)

CHAPTER 9

VEHICLE EQUIPMENT AND LOADS

SECTION

15-901. Brakes generally.
15-902. Brakes for motorcycles and motorized bicycles.
15-903. Brakes for trailers and semi-trailers.
15-904. Service brakes required.
15-905. Performance ability of brakes.
15-906. Maintenance and adjustment of brakes.
15-907. Lights--required on motor vehicles; exceptions; regulations as to color, type and visibility distance.
15-908. Lights--on vehicles other than motor vehicles; visibility distance.
15-909. Lights--headlamps on motorcycle.
15-910. Lights--lamp at end of train of vehicles.
15-911. Lights--lighting devices, reflectors on vehicles having width in excess of eight inches, truck tractors, and trailers; lamp or flag on projecting load.
15-912. Lights--headlights on motor vehicles; operation during inclement weather.
15-913. Muffler required.
15-914. Muffler cutout prohibited.
15-915. Horn; bells, sirens or exhaust whistles on emergency vehicles.
15-916. Windshields and windows.
15-917. Windshield wipers.
15-918. Steering mechanism and wheel alignment.
15-919. Rear view mirrors.
15-920. Vehicles to be constructed and loaded so as to prevent escape of load.
15-921. Vehicles so constructed or loaded as to obstruct traffic prohibited.
15-922. Permit required for excessively wide vehicles.
15-923. Extension of loads on passenger vehicles.
15-924. Protruding objects.
15-925. Ownership identification.
15-926. Mud flaps on trucks.
15-927. Operating vehicle equipped with tire in dangerous condition.
15-928. Unnecessary noise; decibel rating.

15-901. Brakes generally. Every motor vehicle other than a motorcycle, when operated upon any street or roadway within the Town of Arlington, shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels. If these two (2) separate means of applying brakes are connected

in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels. (Ord. #1997-14, Oct. 1997)

15-902. **Brakes for motorcycles and motorized bicycles**. Every motorcycle and bicycle with motor attached when operated upon any roadway within the Town of Arlington shall be equipped with at least one brake, which may be operated by hand or foot. (Ord. #1997-14, Oct. 1997)

15-903. **Brakes for trailers and semi-trailers**. Every trailer or semitrailer of a gross weight of three thousand (3,000) pounds or more, when operated upon any street or roadway within the Town of Arlington, shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and the brakes shall be so designed and connected that in case of accidental breakaway of the towed vehicle, the brakes shall be automatically applied. (Ord. #1997-14, Oct. 1997)

15-904. **Service brakes required**. Every new motor vehicle, trailer or semi-trailer sold in this town or county and operated upon any of the streets or roadways of the town or county shall be equipped with service brakes upon all wheels of every such vehicle, except the following:

(1) Trucks and truck tractors having three (3) or more axles need not have brakes on the front wheels, unless such vehicles are equipped with at least two (2) steerable axles the wheels of one such axle need not be equipped with brakes;

(2) Motorcycles; and,

(3) Any semi-trailer of less than one thousand five hundred (1,500) pounds gross weight need not be equipped with brakes. (Ord. #1997-14, Oct. 1997)

15-905. **Performance ability of brakes**. (1) The service brakes upon any motor vehicle or combination of vehicles shall be adequate to stop such vehicle when traveling twenty (20) miles per hour within a distance of thirty (30) feet when upon dry asphalt or concrete pavement surface free from loose material where the grade does not exceed one percent (1%).

(2) Under the above conditions, the hand brake shall be adequate to stop such vehicle within a distance of fifty-five (55) feet and such hand brake shall be adequate to hold such vehicle stationary on any grade upon which operated.

(3) Under the above conditions, the service brakes upon a motor vehicle equipped with two (2) wheel brakes only, when permitted under this chapter, shall be adequate to stop the vehicle within a distance of forty (40) feet

and the hand brake adequate to stop the vehicle within a distance of fifty-five (55) feet.

(4) All braking distances specified in this section shall apply to all vehicles mentioned, whether or not such vehicles are loaded to the maximum capacity. (Ord. #1997-14, Oct. 1997)

15-906. Maintenance and adjustment of brakes. All brakes specified in this chapter shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicles. (Ord. #1997-14, Oct. 1997)

15-907. Lights—required on motor vehicles; exceptions; regulations as to color, type and visibility distance. (1) Every motor vehicle other than a motorcycle, road roller, road machinery or farm tractor shall be equipped with at least two (2) and not more than four (4) headlights, with at least one on each side of the front of the motor vehicle; provided that, auxiliary road lighting lamps may be used, but not more than two (2) of such lamps shall be lighted at any time in addition to the two (2) required headlights; and, provided that, no spotlight or auxiliary lamps shall be so aimed upon approaching another vehicle that any part of the high intensity portion of the beam therefrom is directed beyond the left side of the motor vehicle upon which the spotlight or auxiliary lamp is mounted, nor more than one hundred (100) feet ahead of such motor vehicle.

(2) Every motor vehicle shall be equipped with two (2) red tail lamps and two (2) red stoplights on the rear of such vehicle, and one tail lamp and one stoplight shall be on each side, except that passenger cars manufactured or assembled prior to January 1, 1939, trucks manufactured or assembled prior to January 1, 1968, and motorcycles and motor-driven cycles shall have at least one red tail lamp and one red stoplight.

(3) The stoplight shall be so arranged as to be actuated by the application of the service or foot brake and shall be capable of being seen and distinguished from a distance of one hundred (100) feet to the rear of a motor vehicle in normal daylight but shall not project a glaring or dazzling light.

(4) The stoplight may be incorporated with the tail lamp.

(5) Each lamp and stoplight required in this section shall be in good condition and operational.

(6) No vehicle operated in this state shall be equipped with any flashing red light which displays to the front of such vehicle except school buses and emergency vehicles used in fire fighting including ambulances, fire-fighting vehicles, rescue vehicles, privately owned vehicles of regular or volunteer firemen certified in Tennessee Code Annotated, § 55-9-201(c), or other emergency vehicles used in fire fighting owned, operated, or subsidized by the governing body of any county or municipality; provided, however, that, any emergency rescue vehicle owned, titled and operated by a state chartered rescue

squad, a member of the state association of rescue squads, or privately owned vehicles of regular or volunteer firemen certified in Tennessee Code Annotated, § 55-9-201(c), and marked with lettering at least three (3) inches in size and displayed on the left and right sides of the vehicle designating it "Emergency Rescue Vehicle;" any authorized civil defense emergency vehicle displaying the appropriate civil defense agency markings of at least three (3) inches; and any ambulance or vehicle equipped to provide emergency medical services properly licensed as required in the state and displaying the proper markings shall also be authorized to be lighted in one or more of the following manners:

(a) A red light visibar type with P.A. system;

(b) A red oscillating type light;

(c) Blinking red lights, front and rear.

(7) Any vehicle, other than an emergency vehicle authorized by this section to display flashing red lights, which displays any such lights shall be considered in violation of this provision and subject for each offense. (Ord. #1997-14, Oct. 1997)

15-908. **Lights—on vehicles other than motor vehicles; visibility distance**. Every vehicle other than a motor vehicle when traveling upon town streets or roadways dedicated, appropriated or open to public use or travel, shall be equipped with a light attached to and on the upper left side of such vehicle, capable of displaying a light visible five hundred (500) feet to the front and five hundred (500) feet to the rear of such vehicle under ordinary atmospheric conditions and such light shall be displayed during the period from one-half hour after sunset to one-half hour before sunrise and at all other times when there is not sufficient light to render clearly discernable any person on the road or highway at a distance of two hundred (200) feet ahead of such vehicle. (Ord. #1997-14, Oct. 1997)

15-909. **Lights--headlamps on motorcycle**. Every motorcycle shall be equipped with at least one and not more than two (2) headlamps. (Ord. #1997-14, Oct. 1997)

15-910. **Lights—lamp at end of train of vehicles**. Every motor vehicle and every trailer or semi-trailer which is being drawn at the end of a train of vehicles shall carry at the rear a lamp of a type which exhibits a yellow or red light plainly visible under normal atmospheric conditions from a distance of five hundred (500) feet to the rear of such vehicle and such light shall be so constructed and placed that the number plate carried on the rear of such vehicle shall under like conditions be so illuminated by a white light as to be read from a distance of fifty (50) feet to the rear of such vehicle. (Ord. #1997-14, Oct. 1997)

15-911. **Lights—lighting devices reflectors on vehicles having width in excess of eight inches, truck tractors, and trailers; lamp or flag**

on projecting load. (1) Every motor vehicle other than any passenger car, any road roller, road machinery or farm tractor having a width of eighty (80) inches or more shall be equipped with at least the following lighting devices and reflectors:

(a) On the front, at least two (2) headlamps, an equal number at each side; two (2) turn signals, one at each side; two (2) clearance lamps, one at each side; three (3) identification lamps, mounted on the vertical centerline of the vehicle, or the vertical centerline of the cab where different from the centerline of the vehicle, except that where the cab is not more than forty-two (42) inches wide at the front roofline, a single lamp at the center of the cab shall be deemed to comply with the requirements for identification lamps. No part of the identification lamps or their mounting may extend below the top of the vehicle windshield;

(b) On the rear, two (2) tail lamps, one at each side; two (2) stop lamps, one at each side; two (2) turn signals, one at each side; two (2) clearance lamps, one at each side; two (2) reflectors, one at each side; three (3) identification lamps, mounted on the vertical centerline of the vehicle, provided that the identification lamps need not be lighted if obscured by a vehicle towed by the truck;

(c) On each side, one side-marker lamp at or near the front, one side-marker lamp at or near the rear; one reflector at or near the front, and one reflector at or near the rear.

(2) Every truck tractor shall be equipped as follows:

(a) On the front, at least two (2) headlamps, an equal number at each side; two (2) turn signals, one at each side; two (2) clearance lamps, one at each side; three (3) identification lamps, mounted on the vertical centerline of the vehicle, or the vertical centerline of the cab where different from the centerline of the vehicle, except that where the cab is not more than forty-two (42) inches wide at the front roofline, a single lamp at the center of the cab shall be deemed to comply with the requirement for identification lamps. No part of the identification lamps or their mountings may extend below the top of the vehicle windshield.

(b) On the rear, one tail lamp; one stop lamp; two (2) reflectors, one at each side; and, unless the turn signals on the front are so constructed (double faced) and located as to be visible to passing drivers, two (2) turn signals on the rear of the cab, one at each side.

(3) Every semi-trailer or full trailer eighty (80) inches or more in overall width, except converter dollies, shall be equipped as follows:

(a) On the front, two (2) clearance lamps, one at each side;

(b) On the rear, two (2) tail lamps, one at each side; two (2) stop lamps, one at each side; two (2) turn signals, one at each side; two (2) clearance lamps, one at each side; two (2) reflectors, one at each side; three (3) identification lamps, mounted on the vertical centerline of the

vehicle, provided that the identification lamps need not be lighted if obscured by another vehicle in the same combination.

(c) On each side, one side-marker lamp at or near the front; one side-marker lamp at or near the rear; one reflector at or near the front; one reflector at or near the rear; and, in case of semi-trailers and full trailers thirty (30) feet or more in length, at least one additional side-marker lamp at optional height and at least one additional reflector, the additional side-marker lamp (or lamps) and reflector (or reflectors) to be at or near the center or at approximately uniform spacing in the length of the vehicle.

(d) For the purposes of these regulations, a converter dolly is a motor vehicle with a fifth wheel lower half or equivalent mechanism, the attachment of which vehicle converts a semi-trailer to a full trailer. Each dolly, when towed singly by another vehicle, and not as part of a full trailer, shall be equipped with one stop lamp, one tail lamp, and two (2) reflectors on the rear. No lighting devices or reflectors are required on the front or sides of any dolly.

(4) During the time when lights are required to be displayed, there shall be attached to the rearmost extremity of any load which projects four (4) feet or more beyond the rear of the body of the motor vehicle, or at any tailboard or tailgate so projecting, or to the rearmost extremity of any load, carried on a pole trailer, at least one red lamp, securely fastened thereto, which shall be visible from a distance of five hundred (500) feet to the sides and rear under normal atmospheric conditions. At all other times a red flag of cloth, synthetic or man-made material shall be so displayed. (Ord. #1997-14, Oct. 1997)

15-912. Lights--headlights on motor vehicles; operation during inclement weather. (1) The headlights of every motor vehicle shall be so constructed, equipped, arranged, focused, aimed, and adjusted, that they will at all times under normal atmospheric conditions and on a level road produce a driving light sufficient to render clearly discernible a person two hundred (200) feet ahead, but shall not project a glaring or dazzling light to persons in front of such headlights. Such headlights shall be displayed during the period from one-half hour after sunset to one-half hour before sunrise, during fog, smoke, or rain and at all other times when there is not sufficient light to render clearly discernible any person on the road at a distance of two hundred (200) feet ahead of such vehicle.

(2) Operation of headlights during periods of rain, as required in this section, shall be made during any time when rain, mist, or other precipitation, including snow, necessitates the constant use of windshield wipers by motorists. (Ord. #1997-14, Oct. 1997)

15-913. Muffler required. No person shall drive a motor vehicle on a street or roadway unless such motor vehicle is equipped with a muffler in good

working order and in constant operation to prevent excessive or unusual noise, annoying smoke and the escape of excessive gas, steam or oil. (Ord. #1997-14, Oct. 1997)

15-914. **Muffler cutout prohibited**. It shall be unlawful to use a muffler cutout on any motor vehicle upon a street or roadway. (Ord. #1997-14, Oct. 1997)

15-915. **Horn; bells, sirens or exhaust whistles on emergency vehicles**. (1) Every motor vehicle, when operated upon any street or roadway shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of not less than two hundred (200) feet, and it shall be unlawful, except as otherwise provided in this section, for any vehicle to be equipped with or for any person to use upon a vehicle any siren, exhaust, compression or spark plug whistle or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

(2) Every Arlington police, sheriff's office, fire department and fire patrol vehicle and every ambulance and emergency repair vehicle of public service companies used for emergency calls shall be equipped with a bell, siren, or exhaust whistle of a type approved by state law. (Ord. #1997-14, Oct. 1997)

15-916. **Windshields and windows**. (1) It shall be unlawful for any person to drive any vehicle upon a street or roadway with any sign, poster or other non-transparent material upon the front windshield, sidewings, side or rear window of such motor vehicle other than a certificate or other paper required to be so displayed by law, where such sign, poster or other non-transparent material will interfere with, obstruct or impair the driver's view from and through the windshield, sidewings, side or rear window of such vehicle. The windshield and windows of such vehicle shall be of transparent material so as to furnish the driver a clear unobstructed view of the front, sides and rear.

(2) All motor vehicles shall be equipped with safety glass of a type approved by the commissioner of the state department of safety, for windshields, doors and windows, according to the provisions of state law. It shall be unlawful to operate any motor vehicle in the Town of Arlington upon which the glass of the windshield, doors, windows or window vents is broken, cracked, pitted, discolored, marred or otherwise defective so as to constitute an impairment or obstruction to the vision of the operator.

(3) It shall be unlawful for any person to operate a motor vehicle upon a public highway, street or road, which has been altered, treated or replaced by the affixation, application or installation of any material which:

(a) Reduces the light transmittance in both front windows below eighteen (18) percent; or

(b) Causes the reflectance of any window to be more than thirty-five (35) percent.

(4) No sunscreen material shall be installed below the manufacturer's standard shade ban length and width of the front windshield.

(5) All installers of tinted glass or other light-retarding materials shall supply an adhesive sticker or other method of certification that the standards required under this section have been met by the materials or method used on the motor vehicle.

(6) All drivers with tinted windows, or windows treated with other light-retarding materials, shall completely roll down the window on the driver's side of the vehicle or exit the vehicle immediately upon being stopped by a uniformed law enforcement officer. (Ord. #1997-14, Oct. 1997)

15-917. Windshield wipers. Every motor vehicle other than a motorcycle and a motor-driven cycle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield of a vehicle, which device shall be so constructed as to be controlled or operated by the operator of the vehicle. (Ord. #1997-14, Oct. 1997)

15-918. Steering mechanism and wheel alignment. No motor vehicle shall be driven upon a public highway, street or road when the "play" in the steering wheel is in excess of three (3) inches. The steering arms, tie rod, drag link or other mechanism by which the vehicle is steered, and the associated parts, must be secure and free from excessive "play" or wear. The "toe-in" and "toe-out" shall not vary more than one-quarter inch from the factory specifications. Rear wheels must be in good condition and in alignment so as not to have more than a ten-foot sideslip per mile, and the center bolts must be secure in the rear springs. (Ord. #1997-14, Oct. 1997)

15-919. Rear view mirrors. No person shall drive a motor vehicle on a public highway, street or road unless such vehicle is equipped with a mirror so located as to reflect to the driver a view of the roadway for distance of at least two hundred (200) feet to the rear of such vehicle. (Ord. #1997-14, Oct. 1997)

15-920. Vehicles to be constructed and loaded so as to prevent escape of load. (1) No vehicle shall be driven or moved on any public highway, street or road unless such vehicle is so constructed as to prevent its contents from dropping, shifting, leaking or otherwise escaping therefrom.

(2) No owner, lessee, operator or driver shall load any vehicle with dirt, ashes, rubbish, debris, sand, gravel, wood chips or any other material that is capable of blowing or slipping from a vehicle as a result of movement or exposure to air, wind current or weather, in such a manner or to the extent that

such load or a material can or will fall or drop from the vehicle to the roadway and no vehicle so loaded shall be driven or conveyed through any street of the Town of Arlington.

(3) All vehicles, transporting dirt, ashes, rubbish, debris, sand, gravel, wood chips or any such material shall be loaded so that the top of the load making contact with any sideboard or side panel or front or rear part of the enclosure must not be within six (6) inches of the top of the part of the enclosure contacted, and at no time shall the load exceed the six (6) inches as stated in this section during transportation of load without being covered.

(4) Subsection (3) of this section does not apply to any load-carrying compartment that completely encloses the load or to the transporting of any load that is otherwise suitably covered or secured by other means which prevents the escape of loose material.

(5) It shall be unlawful for any person to use a motor vehicle to dispose of, or cause to be disposed of, any garbage, rubbish or other waste materials not suitable for fill purposes on any property other than a garbage dump or sanitary landfill, so designated by the Town of Arlington or Shelby County.

(6) In any prosecution charging a violation of any provision of this section, proof that the particular vehicle described in the complaint or summons was used in violation of this section, together with proof that the defendant named in the complaint or summons was, at the time of the violation, the registered owner of such vehicle, or in the case of a lease, the lessee of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle, or the lessee of such vehicle, as the case may be, was the person in control of such vehicle at the time of such violation, or that such vehicle was at such time being used or operated at his instruction and direction, and in his behalf. (Ord. #1997-14, Oct. 1997)

15-921. Vehicles so constructed or loaded as to obstruct traffic prohibited. No person shall drive or direct any vehicle on a public highway, street or road when such vehicle is in a condition, or so constructed or loaded as to be likely to cause delay in traffic or injury to persons or property. (Ord. #1997-14, Oct. 1997)

15-922. Permit required for excessively wide vehicles. No person shall drive or convey through any public highway, street or road any vehicle, the width of which, with its load, exceeds eight (8) feet, except in accordance with a permit issued by the proper authorities. (Ord. #1997-14, Oct. 1997)

15-923. Extension of loads on passenger vehicles. No passenger vehicle shall carry any load extending beyond the fenders on the left side of such vehicle or extending more than six (6) inches beyond the line of the fender on the right side thereof. (Ord. #1997-14, Oct. 1997)

15-924. **Protruding objects**. It shall be unlawful to operate any motor vehicle in the Town of Arlington whereon any installation, attachment or addition thereto or any portion of the vehicle's body, such as windows, doors or bumpers are damaged and are protruding so as to create a dangerous condition to any person or property. (Ord. #1997-14, Oct. 1997)

15-925. **Ownership identification**. All local commercial trucking vehicles, including, but not limited to, vehicles carrying or hauling gravel, sand, metals, trash, garbage, wood, brick, oils, tar, tar derivatives, cement, pipes, beams, or any similarly related materials, shall have identification by displaying on two (2) parallel horizontal lines, on the right and left frontmost doors of such trucking vehicle, in letters at least three (3) inches high, the name of the owner or firm, or in the event equipment is leased, the name of lessee, on the first line and the street address immediately below upon the second line, and an individual vehicle identification number no less than six (6) inches in height on the frontmost doors shall be displayed conspicuously. (Ord. #1997-14, Oct. 1997)

15-926. **Mud flaps on trucks**. (1) No person shall operate upon a public highway, street or road any motor vehicle or combination of vehicle having a carrying capacity in excess of three thousand (3,000) pounds, which motor vehicle or combination of vehicles is not equipped with rear fenders, mud flaps or mudguards which shall be of such size as will substantially prevent the projection of rocks, dirt, water or other substances to the rear. Such fenders, flaps or guards shall be of type approved by the state department of safety.

(2) This section shall have no application to farm vehicles, or vehicles used by farmers to haul produce from farm to market, nor shall it apply to vehicles used exclusively for hauling logs.

(3) Any person violating the provisions of this section shall be guilty of an offense which shall be punishable as provided in § 15-201. (Ord. #1997-14, Oct. 1997)

15-927. **Operating vehicle equipped with tire in dangerous condition**. It shall be unlawful to operate in the Town of Arlington any motor vehicle while using thereon any tire or tires with visibly exposed fabric or bulges or other obvious defects indicating a dangerous condition. (Ord. #1997-14, Oct. 1997)

15-928. **Unnecessary noise; decibel rating**. (1) Definitions. For the purposes of this section, certain words and phrases used herein are defined as follows:

(a) "Ambient noise" is the all-encompassing noise associated with a given environment being usually a composite of sounds from many sources, near and far.

(b) "A-weighted level" is the total sound pressure level of all noise as measured with a sound level meter using the A-weighing network. The unit of measurement is the db(A).

(c) "Band pressure level" of sound for a specified frequency band is the sound pressure level for the sound contained within the restricted band. The reference pressure must be specified.

(d) "Cycle" is the complete sequence of values of a periodic quantity that occurs during a period.

(e) "Decibel or dB" is one-tenth of a bel and is a unit of level when the base of the logarithm is the tenth root of ten (10), and the quantities concerned are proportional to power.

(f) "Sound analyzer" is a device for measuring the band pressure level or pressure spectrum level of a sound as a function of frequency.

(g) "Sound level meter" is an instrument, including a microphone, an amplifier, an output meter, and frequency-weighing networks for the measurement of noise and sound levels in a specified manner.

(h) "Sound pressure level," in decibels of sound, is twenty (20) times the logarithm to the base ten (10) of the ration of the pressure of this sound to the reference pressure, which reference pressure is for the purposes of this section a reference pressure of twenty (20) micro-newtons per meter squared.

All technical definitions are in accordance with American National Standards Institute S1. 1-1960 entitled "Acoustical Terminology."

(2) Motorized vehicles. It shall be unlawful to operate a motorized vehicle, including, but not limited to, cars, trucks, buses, motorcycles, motorbikes, minibikes, and go-carts, within the Town of Arlington, on private or public property, which creates a noise or sound which exceeds the noise level limits set out in Table 1 below:

TABLE 1. LIMITING NOISE LEVELS FOR MOTOR VEHICLES

	Maximum Allowable Limit (dB(A))
Trucks and buses:	
Over 10,000 pounds	
Measured at 50 feet	87
Measured at 25 feet	93
Under 10,000 pounds	
Measured at 50 feet	80
Measured at 25 feet	86

Passenger cars:	
Measured at 50 feet	78
Measured at 25 feet	84
Motorcycles, go-carts, trail bikes and other motorized vehicles not classified as trucks or passenger cars:	
Measured at 50 feet	87
Measured at 25 feet	93

(a) The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source and shall not exceed the above levels as measured in any direction. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured.

(b) Measurement of noise levels caused by a moving vehicle shall be confirmed by a noise level measurement taken with the vehicle stationary. The driver of said vehicle shall be required to accelerate his engine to one-half throttle, in order to conduct the noise level reading.

(3) Mufflers. It shall be unlawful for any person to operate or cause to be operated any muffler attached to any motor vehicle or any other mechanized unit which produces noise levels exceeding dB(A) ratings as set out in Table 1 and accompanying subsections above.

(4) Horns and other warning devices generally. It shall be unlawful for any person to operate or cause to be operated any horn, siren, whistle, bell or any electronic blast which may be attached to any motor vehicle or other mechanized unit which is in any manner inconsistent with § 15-915.

(5) Trains. It shall be unlawful for any person to operate or cause to be operated a warning device of any type, including, but not limited to, a whistle, horn or electronic blast, on trains or vehicles which operate on stationary rails in excess of eighty-seven (87) dB(A) at fifty (50) feet (Table 1 above) for a sustained period of more than thirty (30) seconds, except as may be required by any federal safety regulation requiring sounding of warning signals at grade crossings.

(6) Manner of enforcement. Violations of this section shall be prosecuted in the same manner as other offense violations of the ordinance comprising this chapter, and shall be initiated upon issuance of a traffic citation

ticket, or brought upon complaint of a private citizen by issuance of a summons, after verification by an officer using a sound meter.

(7) Exemptions. The following uses and activities shall be exempt from noise level regulations:

(a) Ambulance, whether owned by private company or government operated, while upon call to scene of accident or emergency situation.

(b) Vehicles used as garbage collection trucks while in performance of duties and used for either loading or processing of garbage and debris, whether privately owned or government operated.

(c) County or town fire equipment upon emergency call and return.

(d) Arlington Police, Shelby County Sheriff's equipment, and/or other city, county, state and federal law enforcement equipment, upon emergency call.

(e) Vehicular equipment used in connection with removal of trees, brush, undergrowth, etc., whether privately owned or government operated.

(f) All of the above-mentioned vehicles, with the exception of county fire equipment, shall be required to maintain mufflers and related equipment within the noise level regulations contained in this section. (Ord. #1997-14, Oct. 1997)

CHAPTER 10

TRAFFIC CONTROL DEVICES

SECTION

15-1001. Installation and maintenance generally.
15-1002. Uniformity; when official.
15-1003. When signs required.
15-1004. Unauthorized signs, signals, etc.
15-1005. Altering, injuring, etc., devices.
15-1006. Traffic-control signal legend generally.
15-1007. Flashing signals.
15-1008. Pedestrian-control signal.
15-1009. Controlled access roadways.
15-1010. Obedience to devices.

15-1001. Installation and maintenance generally. The Town of Arlington and/or the county shall place and maintain traffic-control signs, signals and devices when and as required under this chapter and other traffic ordinances of the county to make effective the provisions of this chapter and other ordinances, and may place and maintain such additional traffic-control devices as may be necessary to regulate traffic under this chapter, other traffic ordinances of the town or county or under state law, or to guide or warn traffic. (Ord. #1997-14, Oct. 1997)

15-1002. Uniformity; when official. All traffic-control signs, signals and devices required by this chapter for a particular purpose shall, so far as practicable, be uniform as to type and location throughout the town or county. All traffic-control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic-control devices. (Ord. #1997-14, Oct. 1997)

15-1003. When signs required. No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place. (Ord. #1997-14, Oct. 1997)

15-1004. Unauthorized signs, signals, etc. (1) No person shall place, maintain or display upon or in view of any public highway, street or road any unauthorized, sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or

signal, which attempts to direct the parking or movement of traffic, which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any public highway, street or road any sign or signal bearing thereon any commercial advertising. This section shall not be deemed to prohibit the erection, upon private property adjacent to highways, or signs giving useful directional information and of a type that cannot be mistaken for official signs.

(2) Every such prohibited sign, signal or making is hereby declared to be a public nuisance and the town is hereby empowered to remove the same or cause it to be removed without notice. (Ord. #1997-14, Oct. 1997)

15-1005. Altering, injuring, etc, devices. (1) No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof.

(2) Violation of this section shall be an offense punishable as provided in § 15-201. (Ord. #1997-14, Oct. 1997)

15-1006. Traffic-control signal legend generally. (1) Whenever traffic is controlled by traffic-control signals exhibiting illuminated and different colored circular lenses or lighted arrows successively one at a time or in combination, only the colors green, yellow and red shall be used, except for special pedestrian signals carrying a word or symbol legend, and such signals shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) Green indication:

(i) 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.

(ii) Vehicular traffic facing a green arrow signal, alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movements as are permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians within any adjacent crosswalk and to other traffic lawfully within the intersection.

(iii) Unless otherwise directed by a pedestrian control signal, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(b) Steady yellow indication, when shown following the green indication:

(i) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter.

(ii) Pedestrians facing a steady yellow indication, unless otherwise directed by a pedestrian control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway.

(c) Steady red indication:

(i) Vehicular traffic facing a steady red signal shall stop at a clearly marked stop line, if any, before entering the crosswalk on the near side of the intersection, or, if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown, except that a right turn shall be permitted at any time unless otherwise prohibited by a sign; and, provided that, the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right-of-way to pedestrians and all vehicles lawfully within the intersection in accordance with the signal indications controlling them, and such turn will not endanger other traffic lawfully using such intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "NO TURN ON RED" sign.

(ii) Unless otherwise directed by a pedestrian control signal, no pedestrian facing a steady red indication alone shall enter the roadway.

(iii) A left turn may be permitted by sign during the display of a steady red indication at any intersection 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 turning car shall come to a full and complete stop and shall yield the right-of-way to pedestrians and all vehicles lawfully in the intersection in accordance with the traffic signal controlling them, and so as not to endanger traffic lawfully using the intersection. Unless signs permitting this left turn during the display of a steady red indication are erected, left turns on red are prohibited.

(2) If an official traffic control signal is erected and maintained on a public highway, street or road, at a location other than an intersection with another public highway, street or road, including, but not limited to, a private road or a driveway entering a public highway, street or road, or a signal-

controlled midblock pedestrian crossing, and if signal indications are provided to control traffic entering or crossing the public highway, street or road, 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 stop line 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 before entering the near side crosswalk or sidewalk, or, if none, the stop shall be made at the roadway right-of-way. If no signal indications are provided to control the traffic on the private road or driveway, the provisions of this chapter covering vehicles entering and leaving a roadway via an uncontrolled private road or driveway shall apply. (Ord. #1997-14, Oct. 1997)

15-1007. Flashing signals. Whenever an illuminated flashing circular red or yellow signal is used in conjunction with a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red signal is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, but if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow signal is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(c) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in Tennessee Code Annotated, § 55-8-145. (Ord. #1997-14, Oct. 1997)

15-1008. Pedestrian-control signal. Whenever special pedestrian-control signals exhibiting the words "Walk" or "Don't Walk" are in place, such signals shall indicate and require obedience as follows:

(1) Walk. Pedestrians facing such a signal may proceed across the roadway in the direction of the signal, within a marked crosswalk, if one exists, and shall be given the right-of-way by the drivers of all vehicles.

(2) Flashing or don't walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has begun his crossing on the "walk" signal may proceed to a sidewalk or designated pedestrian refuge area.

(3) Steady "don't walk." No pedestrian shall leave the curb or start crossing the roadway in the direction of such signal. (Ord. #1997-14, Oct. 1997)

15-1009. Controlled-access roadways. The chief of police or sheriff may, with respect to any controlled-access roadway under his jurisdiction, prohibit the use of any such roadway by pedestrians, bicycles or other non-

motorized traffic or by any person operating a motor-driven cycle. Such prohibition shall be indicated by appropriate signs and, when so erected, no person shall disobey the restrictions stated on such signs. (Ord. #1997-14, Oct. 1997)

15-1010. Obedience to devices. The driver of any vehicle, or any pedestrian, shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with this chapter and other traffic ordinances of the town or county, unless otherwise directed by an officer or deputy. (Ord. #1997-14, Oct. 1997)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER
1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION
16-101. Obstructing streets, alleys, or sidewalks prohibited.
16-102. Trees projecting over streets, etc., regulated.
16-103. Trees, etc., obstructing view at intersections prohibited.
16-104. Projecting signs and awnings, etc., restricted.
16-105. Banners and signs across streets and alleys restricted.
16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
16-107. 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.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right-of-way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1994 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street, or alley at a height of less than fourteen (14) feet or over any sidewalks at a height of less than eight (8) feet. (1994 Code, § 12-102)

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons

[1]Municipal code reference
Related 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. (1994 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.[1] (1994 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1994 Code, § 12-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1994 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1994 Code, § 12-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (1994 Code, § 12-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1994 Code, § 12-109)

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets, without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder

---

[1]Municipal code reference
Shelby County codes applicable within town: § 12-101.

unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1994 Code, § 12-110)

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1994 Code, § 12-112)

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1994 Code, § 12-113)

CHAPTER 2

EXCAVATIONS AND CUTS[1]

SECTION

16-201. Permit required.
16-202. Applications.
16-203. Fee.
16-204. Deposit or bond.
16-205. Manner of excavating--barricades and lights--temporary sidewalks.
16-206. Restoration of streets, etc.
12-207. Unacceptable material.
12-208. Clean-up.
16-209. Insurance.
16-210. Time limits.
16-211. Supervision.
16-212. Driveways.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, street or alley drainage system, or public place, or to tunnel under any street, alley, street or alley drainage system, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter. It shall also be unlawful to violate, or vary from, the terms of any such permits; 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 recorder is open for business, and the permit shall be retroactive to the date when the work was begun. A violation of this section shall be punishable by a fine of fifty dollars ($50.00). Each day's continuance of the violation shall be a new and separate offense. (1994 Code, § 12-201, as amended by Ord. #1996-11, Nov. 1996)

16-202. Applications. Applications for permits shall be made to the recorder, or such person as he may designate to receive applications, and shall

---

[1]State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

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. The application shall be rejected or approved by the recorder within four (4) working days of its filing, unless engineering review of plans is required. (1994 Code, § 12-202)

16-203. **Fee**. The fee for such permits shall be set by resolution. (Ord. #1996-11, Nov. 1996)

16-204. **Deposit or bond**. No permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars ($25.00) if no pavement is involved or seventy-five dollars ($75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the 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 any of this work is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount and for such length of time as the recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1994 Code, § 12-204)

16-205. **Manner of excavating—barricades and lights—temporary sidewalks**. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1994 Code, § 12-205)

16-206. **Restoration of streets, etc**. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, street or alley drainage system, or public place in this town shall restore said street, alley, street or alley drainage system, or public place to its original condition or to the condition acceptable to the town. In case of unreasonable

delay in restoring the street, alley, street or alley drainage system, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1994 Code, § 12-206)

16-207. Unacceptable fill material. If for any reason the excavated material cannot be compacted to its original density the material shall be removed and material acceptable to the recorder shall be used to complete the work. (1994 Code, § 12-207)

16-208. Clean-up. As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock, and other debris resulting from the work. All clean-up operations at the location of such excavation shall be accomplished at the expense of the person, firm, corporation, association, or others making such excavation or tunnel and shall be completed to the satisfaction of the recorder. From time to time, as may be ordered by the recorder and in any event immediately after completion of the excavation or tunnel, the person, firm, corporation, association, or others doing the actual excavating shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from the work within twenty-four (24) hours after having been notified. Upon failure to perform within twenty-four (24) hours, the work may be done by the town and the cost thereof charged to the person, firm, corporation, association, or others doing the actual excavating. (1994 Code, § 12-208)

16-209. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damage for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved, but the liability insurance for bodily injury shall not be less than the state minimum as provided by Tennessee

Code Annotated, § 29-20-403 and any supplements thereof. (1994 Code, § 12-209, modified)

16-210. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the town if the town restores the surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1994 Code, § 12-210)

16-211. Supervision. The recorder or his designate shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, street or alley drainage system, 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. (1994 Code, § 12-211)

16-212. Driveways. No one shall build or maintain a driveway that intersects with a town street, alley, or other public place without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway approach shall be permitted to encompass any municipal or other public facilities. Under the permit provided for herein the applicant may be authorized to relocate any such utility upon application to the subject utility provider and upon making suitable arrangements for financial reimbursements to the provider. No driveway approach shall be permitted within twenty-five (25) feet of the right-of-way of the intersecting street, and no more than one driveway approach shall be permitted per lot when the lot is seventy-five (75) feet or less in width fronting on any street. All new constructions or replacement of driveway drainage culverts shall have minimum dimensions of fifteen (15) inches in diameter for metal corrugated pipe or twelve (12) inches in diameter for concrete pipe, and twenty (20) feet in length, and shall be constructed in a manner not to impede adequate drainage along the road right-of-way. (1994 Code, § 12-212)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER
1. REFUSE.

CHAPTER 1

REFUSE

SECTION
17-101. Refuse defined.
17-102. Premises to be kept clean.
17-103. Storage.
17-104. Location of containers.
17-105. Disturbing containers.
17-106. Collection.
17-107. Collection vehicles.
17-108. Disposal.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1994 Code, § 8-201)

17-102. Premises to be kept clean. All persons within the town are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1994 Code, § 8-202)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within the Town of Arlington where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the town handles mechanically. Furthermore, except for containers which the town

---

[1]Municipal code reference
Property maintenance regulations: title 13.

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. (1994 Code, § 8-203)

17-104. Location of containers. Where alleys are used by the municipal 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 municipal refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the 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. (1994 Code, § 8-204)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1994 Code, § 8-205)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the board of mayor and aldermen shall designate. Collections shall be made regularly in accordance with an announced schedule. (1994 Code, § 8-206)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1994 Code, § 8-207)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (1994 Code, § 8-208)

TITLE 18

WATER AND SEWERS[1]

CHAPTER
1. WATER AND SEWERS.
2. RELOCATED TO CHAPTER 6.[2]
3. REGULATIONS OF ANIMAL AND VEGETABLE FATS, OILS AND GREASE, AS WELL AS SOLIDS, SAND AND LINT TRAPS, SEPARATORS AND INTERCEPTORS.
4. SEWAGE AND HUMAN EXCRETA DISPOSAL.
5. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
6. GENERAL WASTEWATER REGULATIONS.
7. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.

CHAPTER 1

WATER AND SEWERS

SECTION
18-101. Application and scope.
18-102. Definitions.
18-103. Obtaining service.
18-104. Application for service.
18-105. Service charges for temporary service.
18-106. Connection charges and deposits.
18-107. Water and sewer main extensions.
18-108. Variances from and effect of preceding section as to extensions.
18-109. Meters.
18-110. Meter tests.
18-111. Schedule of rates.
18-112. Multiple services through a single meter.
18-113. Billing.
18-114. Discontinuance or refusal of service.
18-115. Re-connection charge.
18-116. Termination of service by customer.

---

[1]Municipal code references
Refuse disposal: title 17.
Shelby County codes applicable within town: § 12-101.

[2]Chapter 2 has been relocated as chapter 6, and chapter 7 has been added per ordinance #2017-08.

18-117. Access to customers' premises.
18-118. Inspections.
18-119. Customer's responsibility for system's property.
18-120. Customer's responsibility for violations.
18-121. Supply and resale of water.
18-122. Unauthorized use of or interference with water supply.
18-123. Limited use of unmetered private fire line.
18-124. Damages to property due to water pressure.
18-125. Liability for cutoff failures.
18-126. Restricted use of water.
18-127. Interruption of service.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1994 Code, § 13-101)

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the town under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water or sewer main of the town to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's water main to and including the meter and meter box.

(4) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.

(5) "Dwelling" means any single residential unit or house occupied for residential purposes. Each separate apartment unit, duplex unit or other multiple dwelling unit shall be considered a separate dwelling.

(6) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1994 Code, § 13-102, modified)

18-103. Obtaining service. A formal application for either original or additional service must be made and be approved by the town before connection or meter installation orders will be issued and work performed. (1994 Code, § 13-103)

18-104. Application for service. Each prospective customer desiring water and/or sewer service must apply for such service to the recorder. If, for

any reason, a customer, after applying for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the town for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the town to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liability of the town to the applicant shall be limited to the return of any deposit made by such applicant. (1994 Code, § 13-104)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1994 Code, § 13-105)

18-106. Connection charges and deposits. Connection charges and deposits shall be established by the town and amended from time to time by appropriate ordinance or resolution.[1] (1994 Code, § 13-106)

18-107. Water and sewer main extensions. Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

For water main extensions cement-lined cast iron pipe, class 150 American Water Works Association Standard (or other construction approved by the board of mayor and aldermen), not less than six (6) inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 1,000 feet from the most distant part of any dwelling structure and no farther than 600 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances; cement-lined cast iron pipe (or other construction approved by the board of mayor and aldermen) two (2) inches in diameter, to supply dwellings only, may be used to supplement such lines. For sewer main extensions eight-inch pipe of vitrified clay or other construction approved by the board of mayor and aldermen shall be used.

All such extensions shall be installed either by municipal forces or by other forces working directly under the supervision of the town in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

---

[1]Administrative ordinances and resolutions are of record in the office of the town recorder.

Upon completion of such extensions and their approval by the town, such water and/or sewer mains shall become the property of the town. The persons paying the cost of constructing such mains shall execute any written instruments requested by the town to provide evidence of the town's title to such mains. In consideration of such mains being transferred to it, the town shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. (1994 Code, § 13-107)

18-108. Variances from and effect of preceding section as to extensions. Whenever the board of mayor and aldermen is of the opinion that it is to the best interest of the town and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the board of mayor and aldermen.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the town to make such extensions or to furnish service to any person or persons. (1994 Code, § 13-108)

18-109. Meters. All meters shall be installed, tested, repaired, and removed only by the town.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the town. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1994 Code, § 13-109)

18-110. Meter tests. The town will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

Meter Size	Percentage
5/8", 3/4", 1", 2"	2%
3"	3%

Meter Size	Percentage
4"	4%
6"	5%

The town will also make tests or inspections of its meters at the request of the customer. (1994 Code, § 13-110)

18-111. Schedule of rates. All water and sewer service shall be furnished under such rate schedules as the town may from time to time adopt by appropriate ordinance or resolution.[1] (1994 Code, § 13-111)

18-112. Multiple services through a single meter. No customer shall supply water or sewer service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the town.

Where the town allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the town's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1994 Code, § 13-112)

18-113. Billing. Bills for residential water and sewer service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the town.

Both charges shall be collected as a unit; no municipal employee shall accept payment of water service charges from any customer without receiving at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined bill.

Water and sewer bills must be paid on or before the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to

---

[1]Administrative ordinances and resolutions are of record in the recorder's office.

receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before five (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid on or before ten (10) days after the discount date. The town shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the town if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the town reserves the right to render an estimated bill based on the best information available.
(1994 Code, § 13-113)

18-114. Discontinuance or refusal of service. The town shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

(1) These rules and regulations;

(2) The customer's application for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the town for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1994 Code, § 13-114)

18-115. Re-connection charge. Whenever service has been discontinued as provided for above, a re-connection charge of ten dollars ($10.00) shall be collected by the town before service is restored. (1994 Code, § 13-115)

18-116. Termination of service by customer. Customers who have fulfilled their obligations and wish to discontinue service must give at least three (3) days notice to that effect. Notice to discontinue service will not relieve the customer from any minimum or guaranteed payment under the applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the town reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the town shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the town should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the town to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1994 Code, § 13-116)

18-117. **Access to customers' premises**. The town's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the town, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1994 Code, § 13-117)

18-118. **Inspections**. The town shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The town reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the town.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the town liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1994 Code, § 13-118)

18-119. **Customer's responsibility for system's property**. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such

property arising from the neglect of a customer to properly care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1994 Code, § 13-119)

18-120. **Customer's responsibility for violations**. Where the town furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1994 Code, § 13-120)

18-121. **Supply and resale of water**. All water shall be supplied within the town exclusively by the town and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the town. (1994 Code, § 13-121)

18-122. **Unauthorized use of or interference with water supply**. No person shall turn on or turn off any of the town's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the town. (1994 Code, § 13-122)

18-123. **Limited use of unmetered private fire line**. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the town.

All private fire hydrants shall be sealed by the town, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the town a written notice of such occurrence. (1994 Code, § 13-123)

18-124. **Damages to property due to water pressure**. The town shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's water mains. (1994 Code, § 13-124)

18-125. **Liability for cutoff failures**. The town's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' notice to cut off a water service, the town has failed to cut off such service.

(2) The town has attempted to cut off a service but such service has not been completely cut off.

(3) The town has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the town's main.

Except to the extent stated above, the town shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the town's cutoff. Also, the customer (and not the town) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1994 Code, § 13-125)

18-126. Restricted use of water. In times of emergencies or in times of water shortage, the town reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1994 Code, § 13-126)

18-127. Interruption of service. The town will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The town shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The town shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1994 Code, § 13-127)

CHAPTER 2

RELOCATED TO CHAPTER 6[1]

---

[1]Chapter 2 has been relocated as chapter 6, and chapter 7 has been added per ordinance #2017-08.

CHAPTER 3

<u>REGULATIONS OF ANIMAL AND VEGETABLE FATS, OILS AND GREASE, AS WELL AS SOLIDS, SAND AND LINT TRAPS, SEPARATORS AND INTERCEPTORS</u>

SECTION

18-301. Purpose.
18-302. Fats, Oils and Grease (FOG) waste food, sand separators and interceptors.
18-303. Definitions.
18-304. Fats, oils, grease and food waste.
18-305. Sand, soil, and oil interceptors.
18-306. Laundries.
18-307. Grease control equipment.
18-308. Grease control equipment sizing.
18-309. Solvents prohibited.
18-310. Cleaning/maintenance of grease control equipment.
18-311. Enforcement and penalties.
18-312. Alteration of control methods.
18-313. Inspection and entry.

18-301. <u>Purpose</u>. The purpose of this chapter is to prevent sanitary sewer system blockages, obstructions and overflows due to contribution and accumulation of fats, oils, and grease from food service establishments, commercial facilities and industrial facilities. This also includes oil and sand separators and interceptors. (Ord. #2005-13, Aug. 2005)

18-302. <u>Fats, Oils and Grease (FOG) waste food, sand separators and interceptors</u>. FOG, waste food and sand interceptors shall be installed when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, ground food waste, sand, soil and solids, or other harmful ingredients in excessive amounts which impact the wastewater collection system. Such interceptors shall not be required for a single family residence, 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. (Ord. #2005-13, Aug. 2005)

18-303. <u>Definitions</u>. In the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Fats, oils and grease (FOG)." Organic compounds derived from animal and/or plant sources. FOG may be referred to as "grease" or "greases".

(2) "Food service establishment (FSE)." Any establishment, business or facility engaged in preparing, serving, or making food available for consumption. Single family residences are not a FSE, however, multi-residential facilities may be considered at the discretion of the superintendent.

(3) "Brown grease." Fats, oils, and grease that is discharged to the grease control equipment.

(4) "Yellow grease." Fats, oils, and grease that has not been in contact or contaminated from other sources (water, wastewater, solid waste, etc.) and can be recycled.

(5) "Grease control equipment (GCE)." A device for separating and retaining wastewater FOG prior to wastewater exiting the FSE and entering The Town of Arlington's sewer system. The GCE is so constructed as to separate and trap or hold fats, oils, and grease substances from entering the Town of Arlington's sewer system. Devices include grease interceptor and grease traps.

(6) "Grease interceptor." Grease control equipment identified as a large tank usually five hundred (500) gallon to two thousand (2,000) gallon capacity that provides FOG control for a FSE.

(7) "Grease trap." Grease control equipment identified as an "under the sink" trap. For a FSE approved to install a grease trap, the minimum size requirement is the equivalent of a twenty-five (25) gallon per minute/50 pound capacity trap. All grease traps will have flow control restrictor and venting.

(8) "Grease recycle container." Container used for storage of yellow grease.

(9) "NAICS - North American Industry Classification System." The website is found at (www.census.gov/epcd/www/naics.html).

(10) "Tee (influent and effluent." A T-shaped pipe extending from the ground surface below grade into the grease interceptor to a depth allowing recovery (discharge) of the water layer located under the layer of FOG. Influent and effluent T's are to be made of PVC and extend to within twelve inches (12") to fifteen inches (15") of the bottom of the interceptor.

(11) "Black water." Wastewater containing human waste, from sanitary fixtures such as toilets and urinals.

(12) "Gray water." Refers to all other wastewater other than black water as defined in this section. (Ord. #2005-13, Aug. 2005)

18-304. Fats, oils, grease and food waste. (1) General requirements.

(a) All existing food service establishments (FSE) are required to have grease control equipment (GCE) installed, maintained and operating properly.

(b) All FSEs will be required to maintain records of cleaning and maintenance of GCE. GCE maintenance records include, at a minimum, the date of the cleaning/maintenance, company or person conducting the cleaning/maintenance, the amount of grease wastewater removed. Grease waste hauler's manifest will meet this requirement.

(c) GCE maintenance records will be available at the FSE premises so they can be provided to the Town of Arlington. The FSE shall maintain GCE maintenance records for three (3) years.

(d) All FSEs are required to dispose of yellow grease in an approved container, where contents will not be discharged to any storm water grate or drain. Yellow grease, or any oils or grease, poured or discharged into the FSE sewer lines or the Town of Arlington sewer system is a violation of this chapter.

(e) Owners of commercial property will be held responsible for wastewater discharges from lease holder on their property.

(2) Shelby County Office of Construction Code Enforcement will not issue any plumbing and building permits with a grease trap requirement, until they receive written approval from the Town of Arlington Public Works Department.

(3) New food establishment, upgrading of existing food service establishment or change of ownership of existing food service establishment requirement. Any new FSE, upgrading of an existing FSE, or change of ownership of an existing FSE, will be required to install and maintain a grease interceptor. Food service establishments in one of these categories must submit a FOG plan to the Town of Arlington for approval.

(4) After approval of the FOG plan by the superintendent, the sewer user must: implement the plan within a reasonable amount of time, service and maintain the equipment in order to prevent adverse impact upon the sewer collection and treatment facility. If in the opinion of the superintendent, the user continues to impact the collection system and treatment plant, additional pretreatment measures may be required. (Ord. #2005-13, Aug. 2005)

18-305. Sand, soil, and oil interceptors. 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 will be sized to effectively remove sand, soil and oil at the expected flow rates. Those interceptors will be cleaned on a regular basis to prevent impact upon the wastewater collection system 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. (Ord. #2005-13, Aug. 2005)

18-306. Laundries. 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 one half inch (½") or larger in size such as strings, rags, buttons, or other solids detrimental to the system. (Ord. #2005-13, Aug. 2005)

18-307. Grease control equipment. The equipment installed to control FOG, food waste, sand, and soil must be in accordance with the plumbing code in effect in Shelby County as provided in municipal code § 12-101. Underground equipment shall be tightly sealed to prevent inflow of rain water and easily accessible to allow regular maintenance. Grease 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. (Ord. #2005-13, Aug. 2005, modified)

18-308. Grease control equipment sizing. The minimum acceptable size of grease control equipment for each FSE classification will be as follows:

Class 1: Deli, ice cream shops, beverage bars, mobile food vendors as defined by NAICS 72213, 722330 - 25 GPM/50 pound grease trap.

Class 2: Limited Service Restaurants (Fast Food Facilities) - NAICS 7222211 - 750 gallon Grease Interceptor.

Caterers - NAICS 722320 - 750 gallon Grease Interceptor.

Class 3: Full Service Restaurants - NAICS 722110 - 1,000 gallon Grease Interceptor.

Class 4: Buffet and Cafeteria Facilities - NAICS 722110 - 1,500 GALLON Grease Interceptor.

Class 5: Institutions (Schools, Hospitals, Prisons, etc.) - NAICS 722310 - 2,000 gallon Grease Interceptor.

To calculate the appropriate size GCE, use the following worksheet. (Ord. #2005-13, Aug. 2005)

TOWN OF ARLINGTON GREASE INTERCEPTOR SIZING WORKSHEET

Project:	Calculated By:	Date:
Address:	Company:	Ref. #:

Instructions:
The following formula is the Grease Interceptor Sizing Formula for the Town of Arlington.
Follow the steps to determine grease interceptor size.

Number of Meals Per Peak Hours		Waste Flow Rate		Retention Time		Storage Factor		Interceptor Size Calculated
	x		x		x		=	
Step 1		Step # 2		Step # 3		Step # 4		Step # 5

Recommended Minimum Size Grease Interceptor
Based on Town of Arlington Grease Interceptor Worksheet ______ Step # 6

1

Number of Meals Per Peak Hour

Recommended Formula:

Seating Capacity	x	Meal Factor	=	Number of Meals Per Peak Hour
	x		=	

(Enter Seating Cap.)

Establishment Type	Meal Factor	Meal Factor
___Fast Food	45	1.33
___Restaurant	60	1.00
___Leisure Dining	90	0.67
___Dinner Club	120	0.50

Notes:

2

Waste Flow Rate

Condition	Flow Rate
____a. With a Dishwashing Machine	6 Gallon Flow
____b. Without Dishwashing Machine	5 Gallon Flow
____c. Single Service Kitchen	2 Gallon Flow
____d. Food Waste Disposer Only	1 Gallon Flow

Notes:

3

Retention Time

____Commercial Kitchen Waste Dishwasher	2.5 Hours
____Single Service Kitchen Single Serving	1.5 Hours

Notes:

4

Storage Factor

Kitchen Type	Storage Factor
a. Fully Equipped Commercial Kitchen	
Hours of Operation	
___ 0 - 8 Hours	1.5
___ 9 - 12 Hours	2.0
___ 13 - 16 Hours	3.0
___ 17 - 24 Hours	2.0
___ Single Service Kitchen	2.0

Notes:

5

Calculate Liquid Capacity

Multiply the values obtained from step # 1, # 2, # 3, and # 4.
The result is the approximate grease interceptor for this application.

Notes:

6

Select Grease Interceptor

Using the approximate required liquid capacity from step # 5, select an appropriate size as recommended by this worksheet.

Notes:

18-309. Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. Chemical treatments such as drain cleaners, acid and other chemicals designed to dissolve or remove grease will not be allowed to enter the grease interceptor. (Ord. #2005-13, Aug. 2005)

18-310. Cleaning/maintenance of grease control equipment.

(1) Grease traps shall be cleaned at a frequency of not less than once per every two (2) weeks. Grease trap waste, prior to disposal, should be sealed or placed in a container to prevent leaking. Grease trap waste should not be mixed with yellow grease in the grease recycle container.

(2) Grease interceptors must be pumped at intervals of not longer than thirty (30) days at the user's expense. Grease interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand eating utensils, cigarettes, shells, towels, rags, etc., which could settle into a grease pocket and thereby reduce the effective volume of the grease interceptor.

(3) If the town is required to clean out the public sewer lines as a result of a stoppage in the lines resulting from poorly maintained control equipment, or lack thereof, the owner or operator shall be required to refund the labor, equipment, materials and overhead costs to the town. Nothing in this section shall be construed to prohibit or restrict any other remedy the town has under this chapter or state or federal law.

(4) The Town of Arlington retains the right to inspect and approve installation of the grease control equipment. (Ord. #2005-13, Aug. 2005)

18-311. Enforcement and penalties. (1) Enforcement action against the FSE includes, but is not limited to, failure to clean or pump grease control equipment, failure to maintain grease control equipment, failure to control FOG discharge from the FSE, and the use of additives in such quantities so that FOG is pushed downstream of the FSE.

(2) Any person who violates this chapter shall be guilty of a civil violation punishable under and according to the following general penalty provision:

(a) Civil liabilities. Any person or user who intentionally or negligently violates any provision of this chapter, requirements or conditions set forth in permits duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard of performance, pretreatment or toxicity standard, shall be liable civilly. Said civil liability may be in a sum of not to exceed ten thousand dollars ($10,000) for each day in which such violation occurs.

The superintendent may petition the circuit or chancery court to impose, assess, and recover such sums. In determining such amount, the court shall take into consideration all relevant circumstances, including,

but not limited to, the extent of harm caused by the violations, the nature and persistence of the violations, the length of time over which the violation occurs, and the corrective action, if any.

(b) Penalties. Any person who shall continue any violation beyond the time limit specified by the superintendent shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not more than one thousand dollars ($1,000.00) for each violation. Each day in which any such violation occurs shall be deemed a separate offense, unless the fact of such violation is being appealed as herein provided. (Ord. #2005-13, Aug. 2005, modified)

18-312. Alteration of control methods. The Town of Arlington, through the superintendent, reserves the right to request additional control measures if measures taken are shown to be insufficient to protect sewer collection system and treatment plant from interference due to discharge of fats, oils, and grease, sand/soil or lint. (Ord. #2005-13, Aug. 2005)

18-313. Inspection and entry. Authorized Town of Arlington personnel bearing proper credentials and identification, shall have the right to enter upon all properties subject to this program, at any time and without prior notification, for the purpose of inspection, observation, measurement, sampling, testing, or record review, in accordance with this chapter. (Ord. #2005-13, Aug. 2005)

CHAPTER 4

SEWAGE AND HUMAN EXCRETA DISPOSAL

SECTION

18-401. Definitions.
18-402. Places required to have sanitary disposal methods.
18-403. When a connection to the public sewer is required.
18-404. When a septic tank shall be used.
18-405. Registration and records of septic tank cleaners, etc.
18-406. Use of pit privy or other method of disposal.
18-407. Approval and permit required for septic tanks, privies, etc.
18-408. Owner to provide disposal facilities.
18-409. Occupant to maintain disposal facilities.
18-410. Only specified methods of disposal to be used.
18-411. Discharge into watercourses restricted.
18-412. Pollution of ground water prohibited.
18-413. Enforcement of chapter.
18-414. Carnivals, circuses, etc.
18-415. Violations.

18-401. Definitions. The following definitions shall apply in the interpretation of this chapter:

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred (200) feet of any boundary of said property measured along the shortest available right-of-way.

(2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(3) "Human excreta." The bowel and kidney discharges of human beings.

(4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Environment and Conservation as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width.

The liquid depth should not exceed five (5) feet. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(7) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1994 Code, § 8-301)

18-402. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1994 Code, § 8-302)

18-403. When a connection to the public sewer is required. Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1994 Code, § 8-303)

18-404. When a septic tank shall be used. Wherever water-carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1994 Code, § 8-304)

18-405. Registration and records of septic tank cleaners, etc. Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage

disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1994 Code, § 8-305)

18-406. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-402 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1994 Code, § 8-306)

18-407. Approval and permit required for septic tanks, privies, etc. Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1994 Code, § 8-307)

18-408. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-402, or the agent of the owner, to provide such facilities. (1994 Code, § 8-308)

18-409. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times, and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1994 Code, § 8-309)

18-410. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1994 Code, § 8-310)

18-411. Discharge into watercourses restricted. No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1994 Code, § 8-311)

18-412. Pollution of ground water prohibited. No sewage effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening, either natural or

artificial, in any formation which may permit the pollution of ground water. (1994 Code, § 8-312)

18-413. **Enforcement of chapter**. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health, such person shall at once take steps to remove the menace. Failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction. (1994 Code, § 8-313)

18-414. **Carnivals, circuses, etc**. Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits, such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1994 Code, § 8-314)

18-415. **Violations**. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1994 Code, § 8-315)

CHAPTER 5

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.[1]

SECTION

18-501. Definitions.
18-502. Standards.
18-503. Construction, operation, and supervision.
18-504. Statement required.
18-505. Inspections required.
18-506. Right of entry for inspections.
18-507. Correction of existing violations.
18-508. Use of protective devices.
18-509. Unpotable water to be labeled.
18-510. Violations.

18-501. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the town for general use and which supply is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(2) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "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.

(6) "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. (1994 Code, § 8-401)

---

[1]Municipal code references
Water and sewer system administration: title 18.
Wastewater treatment: title 18.

18-502. Standards. The municipal public water supply is to comply with Tennessee Code Annotated, §§ 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. (1994 Code, § 8-402)

18-503. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of 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 waterworks of the town. (1994 Code, § 8-403)

18-504. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the waterworks 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. (1994 Code, § 8-404)

18-505. Inspections required. It shall be the duty of the superintendent of the waterworks 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 waterworks and as approved by the Tennessee Department of Environment and Conservation. In the event there is any permitted construction, whether they be housed in a new facility or existing facility, a fee shall be charged the Town of Arlington for the review and inspection of drawings and buildings in determining whether backflow prevention devices are necessary. The amount of the fee shall be set by resolution and adjusted as necessary by the Board of Mayor and Aldermen of the Town of Arlington based upon the recommendations of the town superintendent to reflect the cost of providing cross connection control. The fee shall be assessed each time the drawings and buildings are inspected and reviewed. Where repeat drawing and building inspections are required to correct deficiencies, a fee shall be assessed each time the re-review is repeated. (1994 Code, § 8-405, as amended by Ord. #1996-13, Dec. 1996)

18-506. **Right of entry for inspections**. The superintendent of the waterworks or his 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 therein 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. (1994 Code, § 8-406)

18-507. **Correction of existing violations**. 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 waterworks.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the superintendent of the waterworks shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two 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. (1994 Code, § 8-407)

18-508. **Use of protective devices**. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

(1) Impractical to provide an effective air-gap separation;

(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the water supply, 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 waterworks of the town or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of 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 waterworks 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.

Personnel of the municipal public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the superintendent of the waterworks or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the superintendent of the waterworks shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The superintendent shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the superintendent of the waterworks.

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 of the waterworks.

A fee shall be charged for the testing and inspection of backflow prevention devices. The amount of the fee shall be set by resolution and adjusted as necessary by the Board of Mayor and Aldermen of the Town of Arlington based upon the recommendations of the town superintendent to reflect the cost of providing cross connection control. The fee shall be assessed on each time a device is inspected and tested by the department. Where repeated inspections

and testing are required to correct violations or deficiencies, a fee shall be assessed each time the inspection and test are repeated. (1994 Code, § 8-408, as amended by Ord. #1996-13, Dec. 1996)

18-509. Unpotable water to be labeled. In order that the potable water supply made available to premises 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. (1994 Code, § 8-409)

18-510. Violations. The requirements contained herein shall apply to all premises served by the municipal 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 deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined under the general penalty clause for this municipal code of ordinances. (1994 Code, § 8-410)

CHAPTER 6

GENERAL WASTEWATER REGULATIONS

SECTION

18-601. Purpose and policy.
18-602. Administrative.
18-603. Definitions.
18-604. Proper waste disposal required.
18-605. Private domestic wastewater disposal.
18-606. Connection to public sewers.
18-607. Regulation of holding tank waste disposal or trucked in waste.
18-608. Discharge regulations.
18-609. Enforcement and abatement.

18-601. Purpose and policy. This chapter sets forth uniform requirements for users of the Town of Arlington, Tennessee, wastewater treatment system and enables the town to comply with the Federal Clean Water Act and the state Water Quality Control Act and rules adopted pursuant to these acts, The objective of this chapter are:

(1) To protect public health,

(2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;

(3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;

(4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(5) To promote reuse and recycling of industrial wastewater and sludge from the facility;

(6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and

(7) To enable the town to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the Town of Arlington (hereinafter referred to as town) must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

This ordinance shall apply to all users inside or outside the town who are, by implied contract of written agreement with the town, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 7 provides

for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 7 also details permitting requirements including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. (Ord. #1997-1, Feb. 1997; as relocated and replaced by Ord. #2017-08, June 2017)

18-602. Administrative. Except as otherwise provided herein, the wastewater supervisor of the town shall administer, implement, and enforce the provisions of this chapter. (Ord. #1997-1, Feb. 1997; as relocated and replaced by Ord. #2017-08, June 2017)

18-603. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Administrator." The administrator or the United States Environmental Protection Agency.

(2) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. § 1251, et seq.

(3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Resources.

(4) "Authorized or Duly Authorized Representative of industrial user:

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can insure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in paragraphs (a)-(c), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the town.

(5) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-608 of this chapter. BMPs also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees (20°) centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(8) "Categorical standards." The National Categorical Pretreatment Standards or Pretreatment Standard as found in 40 CFR chapter 1, subchapter N, parts 405-471.

(9) "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.

(10) "Compatible pollutant." Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the town's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(11) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(12) "Control authority." The term "control authority" shall refer to the Town of Arlington.

(13) "Cooling water or non-contact cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(14) "Customer." 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.

(15) "Daily maximum." The theoretic average of all effluent samples for a pollutant (except pH) collected during a calendar day, the daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(16) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a twenty-four (24) hour period. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken that day.

(17) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(18) "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.

(19) "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.

(20) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(21) "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. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(22) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(23) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(24) "Indirect discharge." The introduction of pollutants into the wastewater facility (WWF) from any non-domestic source.

(25) "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).

(26) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(27) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(28) "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.

(29) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or collection system.

(30) "Local administrative officer." The chief administrative officer of the local hearing authority.

(31) "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 § 18-705.

(32) "Local limit." Specific discharge limits developed and enforced by the town upon industrial and commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rules 0400-40-14-.05(1)(a) and (2).

(33) "Monthly average." The arithmetic average value of all daily results for a calendar month for an individual pollutant parameter.

(34) "Monthly average limit." The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(35) "National categorical pretreatment standard or categorical 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. § 1317) which applies to a specific category of users and that appear in 40 CFR chapter I, subchapter N, 405-471.

(36) "NAICS, North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and

the United States. It replaces the Standard Industrial Classification (SIC) System.

(37) "New source." (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In detaining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(38) "NPDES (National Pollution Discharge Elimination System)." 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 Clean Water Act as amended.

(39) "Pass-through." A discharge which exits the WWF into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit including an increase in the magnitude or duration of a violation.

(40) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(41) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(42) "Pollution." The manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(43) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(44) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR section 403.6(d).

(45) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(46) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(47) "Pretreatment standards or standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(48) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act which is owned in this instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in

section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. See WWF, Wastewater Facility, found in definition number 63, below.

(49) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(c) The town may determine that an Industrial User (IU) subject to categorical pretreatment standards is a non-significant categorical user rather than a significant industrial user on a finding that the IU never discharges more than one hundred (100) gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling water and blower blown down wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

(i) The industrial user, prior to the town's findings, has consistently complied with all applicable categorical pretreatment standards and requirements;

(ii) The IU annually submits the certification statement required in § 18-704(14)(b)(1-2), together with any additional information necessary to support the certification statement;

(iii) The IU never discharges any untreated concentrated wastewater.

(iv) Upon finding that a user meeting the criteria in the above part, has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the town may at any time, on its own initiative or in response to a petition received from an IU, and in accordance with procedures in Tennessee Rule 0400-2-14-.08(6)(t), determine that such user should not be considered a significant industrial user.

(50) "Significant noncompliance." (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken

during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-705(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than 50 minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(51) "Slug." Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the WWF's regulations, local limits, or permit conditions.

(52) "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.

(53) "State." The State of Tennessee.

(54) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(55) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(56) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(57) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(58) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(59) "Town." The Town of Arlington, and or Town of Arlington, Tennessee Mayor and Board of Alderman.

(60) "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.

(61) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability. Tennessee Code Annotated, § 68-221-201.

(62) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

(63) "Wastewater Facility" or "WWF." Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF is also formally known as a POTW, or Publicly Owned Treatment Works.

(64) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or

underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(65) "0400-40-14." Chapter 0400-40-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (Ord. #1997-1, Feb. 1997; as relocated and replaced by Ord. #2017-08, June 2017)

18-604. <u>Proper waste disposal required</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, 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 any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this ordinance or town or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available property owners shall within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Where a public sanitary sewer is not available under the provisions of (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-605 of this ordinance.

(6) 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. (Ord. #1997-1, Feb. 1997; as relocated and replaced by Ord. #2017-08, June 2017)

18-605. <u>Private domestic wastewater disposal</u>. (1) <u>Availability</u>.

(a) Where a public sanitary sewer is not available under the provisions of § 18-604(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the

town. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the town to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the town and the county health department. (Ord. #1997-1, Feb. 1997; as relocated and replaced by Ord. #2017-08, June 2017)

18-606. Connection to public sewers. (1) Application for service.

(a) There shall be two classifications of service; (1) residential and (2) service to commercial, industrial and other nonresidential establishments. In either case, the owner or his agent shall make application for connection on a special form furnished by the town. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include but are not limited to those required by this ordinance. Service connection fees for establishing new sewer service are paid to the town, Industrial User discharge permit fees may also apply. The receipt by the town of a prospective customer's application for connection 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, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the town to the applicant for such service.

(b) Users shall notify the town of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The town may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of this ordinance shall be completely and permanently disconnected within sixty (60) days of the effective day of this ordinance. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental removal of such sources. Pipes, sumps and pumps for such sources of ground water shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. A plumber or contractor shall make all connections to the public sewer upon the property owner first submitting a connection application to the town. The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the town at the time the application is filed. The applicant is responsible for excavation and installation of the building sewer which is located on private property. The town will inspect the installation prior to backfilling.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Where property is subdivided and buildings use a common building sewer are

now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: conventional sewer system - Four inches (4")

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: Four inch (4") sewers - one eight inch (1/8") per foot.
Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two (2.0) feet per second.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe Schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe or replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support

pipe to prevent damage or sagging. All such connections shall be made gaslight and watertight.

(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved pump system according to § 18-607 and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, back filling 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 by the ASTM. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections.

(i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant of 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.

(4) Maintenance of building sewers. Each property served by public sewer has a service line that runs from the property to the town's sewer mains. The town shall have ownership of the service lines up to but not including the connection to the property's sewer line from the building on the property. Due to changes over time in the way service lines are connected, the definition of the limits of the connection will depend on the type of connection and the location of the connection on the property.

(a) Donut style sewer connection: The property owner is responsible to the discharge end of the pipe that penetrates into the town's service line including the donut style connection.

(b) PVC glued connection: For properties where the sewer line is 4 inch in diameter and the town's service line is six inches (6") in diameter, the connection will be where the four to six inch (4" to 6") reducer is glued into the town's service line. In the event that there is no pipe size difference the connection will be where there is a color change in the pipe, or change in pipe materials or the edge of the right of way.

(c) Concrete, terra cotta, other: The property owner is responsible for the connection at the four to six inch (4" to 6") reducer, or where the pipe material changes, Fernco coupling or the edge of the right of way.

(d) Multiple properties on one (1) connection: The property owners are responsible from the "Y" or Tee, which splits the properties from the town's common service line, back to the structures.

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 or ground water to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service. In the event there is a sewage backup into the property owner's building or out of a cleanout or through a break in the sewer line on the property owner's side of the sewer connection, it is the property owner's responsibility to pay for any damages, cleanup or repairs on or in their property. Once the town notifies the property owner that there is a sewer line break or leak on their property, the property owner will make repairs as soon as possible. If the superintendent deems it necessary, the town can make repairs and assess a lien against the property for the cost of repairs, plus overhead charges and civil penalties.

(5) Sewer extension. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the town. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works. Contractors must provide the superintendent or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and all inspections as specified by the

superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the town. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (Ord. #1997-1, Feb. 1997; as relocated and replaced by Ord. #2017-08, June 2017)

18-607. Regulation of holding tank waste disposal or trucked in waste. (1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains a written approval from the town to perform such acts or services.

(2) 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.

(3) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the town to be set as specified in § 18-707 of this ordinance. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(4) Designated disposal locations. 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. The superintendent may refuse to accept any truckload of waste at his discretion where it appears that the waste could interfere with the operation of the WWF.

(5) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the 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 excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the Town of Arlington.

(6) Trucked in waste. This part includes waste from trucks, railcars, barges, etc., or temporally pumped waste, all of which are prohibited without a permit issued by the superintendent. This approval may require testing, flow monitoring and record keeping. (Ord. #1997-1, Feb. 1997; as relocated and replaced by Ord. #2017-08, June 2017)

18-608. Discharge regulations. (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of this section may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of § 18-609. A user may not contribute the following substances to any WWF:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or to the operation of the WWF. Prohibited flammable materials include, but are not limited to, waste streams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140° F) or sixty degrees Centigrade (60° C) using the test methods specified in 40 CFR 261.21 Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and 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) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one half inch (1/2 ") in any direction, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case heat in quantities that the temperature at the wastewater treatment plant exceeds forty degrees Centigrade (40°C) one hundred four degrees Fahrenheit (104° F) unless approved by the State of Tennessee.

(f) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.

(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(i) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent or any other product of the WWF such as residues, sludge, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the WWF cause the WWF to be in non-compliance with sludge use or disposal criteria, 40 CFR 503, guidelines, or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein,

(n) Any waters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the 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 animal or vegetable fats, wax, grease, or oil whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant,

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam,

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(s) Any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water 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) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 7 may be subject to numerical limits and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) Dilution. Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no IU shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The town may impose mass limitations on IUs which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate. (Ord. #1997-1, Feb. 1997; as relocated and replaced by Ord. #2017-08, June 2017)

18-609. Enforcement and abatement. Violators of these wastewater regulations may be cited to general sessions court, chancery court, or other court of competent jurisdiction face fines, have sewer service terminated or the town may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 7. Repeated or continuous violation of this ordinance is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected

from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The town may take any or all the following remedies:

(1) Cite the user to or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (Ord. #1997-1, Feb. 1997; as relocated and replaced by Ord. #2017-08, June 2017)

CHAPTER 7

INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

SECTION

18-701. Industrial pretreatment,
18-702. Discharge permits.
18-703. Industrial user additional requirements.
18-704. Reporting requirements.
18-705. Enforcement response plan.
18-706. Enforcement response guide table.
18-707. Fees and billing.
18-708. Validity.

18-701. Industrial pretreatment. In order to comply with Federal Industrial Pretreatment Rules 40 CFR Part 403 and Tennessee Pretreatment Rules 0400-40-14 and to fulfill the purpose and policy of this ordinance the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-608 of this ordinance.

(2) Users who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-705.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as local limits, Table 1 or other applicable state and federal pretreatment rules which may be in effect or take effect after the passage of this ordinance.

Table 1 - Local Limits

Pollutant	Daily Maximum Limit (mg/L)
Cadmium	0.02
Chromium (total)	0.752

Pollutant	**Daily Maximum Limit (mg/L)**
Copper	0.65
Lead	0.12
Nickel	1.04
Silver	0.014
Zinc	0.332
Cyanide (total)	0.22
Phenols	0.610
Oil & Grease (total)	100
BOD/CBOD	Industry Specific [1]
TSS	Industry Specific [1]
pH	5.5 - 9.5

[1]BOD/CBOD and TSS will be distributed based on an industrial contributory allocation method, not to exceed the Maximum Allowable Industrial Loading (MAIL). These may be either concentration-based (mg/L) or mass-based (lb/day).
*Based on twenty four (24) hour flow proportional composite samples unless specified otherwise.

(5) Surcharge thresholds. Dischargers of high strength waste may be subject to surcharges based on the following surcharge thresholds. Maximum concentrations or mass loadings may also be established for some users, on a site-specific basis.

Table 2 - Surcharge Threshold

Parameter	**Surcharge Threshold (mg/L)**
Biochemical Oxygen Demand (BOD)	250
Total Suspended Solids (TSS)	250

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for pollutants. Industrial users shall be subject to reporting and monitoring requirements regarding these

parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by the Maximum Allowable Industrial Loading (MAIL) or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the town the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency. (as added by Ord. #2017-08, June 2017)

18-702. Discharge permits. (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the town sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-606 of this ordinance and an inspection has been performed by the superintendent or his representative.

The receipt by the town of a prospective customer's application for connection 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) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required to apply for a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the town and shall include, but not be limited to the following information: name, address, and SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-608 and 18-701 discharge variations -- daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this

chapter. If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard for the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(iv) 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.

(v) 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.

(vi) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(vii) Wastewater discharge general permits.

(A) At the discretion of the superintendent, the superintendent may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

(1) Involve the same or substantially similar types of operations

(2) Discharge the same types of wastes

(3) Require the same effluent limitations

(4) Require the same or similar monitoring, and

(5) In the opinion of the superintendent, are more appropriately controlled under a general permit than under individual wastewater discharge permits

(6) A WWF may not control a SIU through a general control mechanism where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for industrial users whose limits are based on the combined wastestream formula or net/gross calculations (0400-40-14-.06(5) and 0400-40-14-.15)

(B) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring, all wastes covered by the general permit, any requests in accordance with § 18-704(4)(b)(1-8) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the superintendent has provided written notice to the SIU that such waiver has been granted in accordance with § 18-704(4)(b)(1-8).

(C) The superintendent will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in § vii(A)1-6 above and applicable state regulations, and a copy of the user's written request for coverage for three (3) years after the expiration of the general permit.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits (individual and general) 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:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, State Rules, and categorical pretreatment standards, local, state, and federal laws.

(D) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or

best management practice) to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge, or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type based on federal, state, and local law;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary;

(G) Requirement to notify the WWF immediately if changes in the user's processes affect the potential for a slug discharge.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Requirements for installation and maintenance of inspection and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town and affording town access thereto;

(F) Requirements for notification of the town sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Prohibition of bypassing pretreatment or pretreatment equipment;

(H) Effluent mass loading restrictions;

(I) Other conditions as deemed appropriate by the town to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. This user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date

of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specific time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the users existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the 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) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges;

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

Any claim of confidentiality must be asserted at the time of submission in the manner prescribed on the application form or instructions, or, in the case

of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the town may make the information available to the public without further notice.

When requested by the person furnishing the report, and approved by the town, 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 pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user.

Information and data provided to the control authority pursuant to this part which is effluent data shall be available to the public without restriction. (as added by Ord. #2017-08, June 2017)

18-703. Industrial user additional requirements. (1) Monitoring facilities. The installation or a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator. When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge. Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however; when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 CFR 136 and appropriate EPA guidance. Multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows. For cyanide, total phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The town may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying, or in the performance of any of its duties. The 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. The town will utilize qualified town personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the 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) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at startup of the industrial process to be in full compliance of effluent standards within ninety (90) days of startup of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user: according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance.

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge in to the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the WWF, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of an accidental or slug 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. (as added by Ord. #2017-08, June 2017)

18-704. Reporting requirements. Users, whether permitted or non-permitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-705.

(1) Baseline monitoring report. (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 0400-40-14-.06(l)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the superintendent a report which contains the information listed in paragraph (B), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged,

(b) Users described above shall submit the information set forth below.

(i) Identifying information. The user name, address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula.

(v) Measurement of pollutants.

(A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 CFR 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 CFR 136 or other approved methods.

(H) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified

professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-704(2) of this ordinance.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-704(14) of this ordinance and signed by the duly authorized representative.

(2) <u>Compliance schedule progress reports</u>. The following conditions shall apply to the compliance schedule required by § 18-704(1)(d) of this ordinance:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule;

(d) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(3) <u>Reports on compliance with categorical pretreatment standard deadline</u>. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in § 18-704(1)(b)(iv) and (v) of this ordinance. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling

period. All compliance reports must be signed and certified in accordance with subsection (14) of this section. All sampling will be done in conformance with subsection (11).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the superintendent submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) The town may authorize an IU subject to a categorical pretreatment standard to forgo sampling of a pollutant regulated by a categorical pretreatment standard if the IU has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the IU. This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard. This authorization is subject to the following conditions:

(i) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by the applicable categorical standard and otherwise includes no process wastewater.

(ii) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent wastewater discharge permit. See § 18-702(2)(viii)(B).

(iii) In making a demonstration that a pollutant is not present, the IU must provide data from at least one sampling event of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(iv) The request for a monitoring waiver must be signed in accordance with § 18-603(4) and include the certification statement in § 18-704(14)(A).

(v) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(vi) Any grant of the monitoring waiver by the town must be included as a condition in the users' permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the town for three (3) years after the expiration of the waiver.

(vii) Upon approval of the monitoring waiver and revision of the user's permit by the town, the IU must certify on each report with the statement in § 18-704(14)(c), that there has been no increase in the pollutant in its wastestream due to activities of the IU.

(viii) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of § 18-704(4) or other more frequent monitoring requirements imposed by the town and notify the town.

(c) All periodic compliance reports must be signed and certified in accordance with this ordinance.

(d) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(e) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in subsection (11) of this section, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-701 of this chapter.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-702 of this chapter or modify an existing wastewater discharge permit under § 18-702 of this chapter in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a no customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require to determine user's status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation. The user must notify the superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the town performs sampling at the user's facility at least once a month, or if the town performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the town receives the results of this sampling, or if the town has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-704(5) of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 18-704(1), 18-704(3), and 18-704(4) of this chapter.

(b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous waste, unless the waste are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and

toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued there under, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in sections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the superintendent. Where time-proportional composite sampling or grab sampling is authorized by the town, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the town, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic

compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements and documentation associated with best management practices established under § 18-608(2). Records shall include the date, exact place, method and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used: and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the town, or where the user has been specifically notified of a longer retention period by the superintendent.

(14) Certification statements, signature and certification. (a) All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete, I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(b) Annual certification for non-significant categorical industrial users. A facility determined to be a non-significant categorical industrial user by the town pursuant to § 18-603(49)(c) must annually submit the following certification statement signed by the duly authorized representative. This certification must accompany an alternative report required by the town:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards and 40 CFR _____ I certify that, to the best of my knowledge and belief that during the period from ____________ to __________ (month, year):

(1) The facility described as __________ (facility name) met the definition of a non-significant categorical user as described in § 18-603(51) (C).

(2) The facility complied with all applicable pretreatment standards and requirements during this reporting period, and

(3) The facility never discharges more than one hundred (100) gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based on the following information.

(c) Certification of pollutants not present. Users that have an approved monitoring waiver based on § 18-704(4)(B)(1-8) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR __________ [specify applicable retreatment standard parts] I certify that, to the best of my knowledge and belief, there have been no increase in the level of __________ [list pollutants] in the wastewaters due to the activities at the facility since filing of the last periodic report under § 18-704(4).

(d) Reports required to have signatures and certification statement include, permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (as added by Ord. #2017-08, June 2017)

18-705. Enforcement response plan. Under the authority of Tennessee Code Annotated, § 69-3-123 et seq.

(1) Complaints; notification of violation; orders.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the Town of Arlington Wastewater Regulations, pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the 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, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-705(2), no later than thirty (30) days after the date the order is served; provided, that the local hearing authority may review the final order as provided in Tennessee Code Annotated, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (i) through (iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the town or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation of the violation and a plan for its satisfactory correction and prevention, including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of the town to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may

not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the 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 WWF, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any 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 any 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 town in meeting the emergency.

(ii) Appeals from orders of the local administrative officer.

(A) Any user affected by any order of the local 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 the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration,

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged 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 the 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 may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subdivision (a)(vi). The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation.

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of Shelby County has jurisdiction upon the application of the local hearing authority or the local administrate officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (b).

(viii) Any person to whom an emergency order is directed under § 18-705(1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, et seq. within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the 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 the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125.

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs:

(A) Unauthorized discharge, discharging without a permit;

(B) Violates an effluent standard or limitation;

(C) Violates the terms or conditions of a permit;

(D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement,

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must 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 the 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 is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty, the 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 costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The 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 Tennessee Code Annotated. § 69-3-115 (a)(1)(F). However, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a) shall not exceed ten thousand dollars ($10,000) 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 of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. 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 the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-702(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations of a wastewater discharge permits, or orders issued hereunder, or for any of the following conditions:

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the users premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the genera) discharge prohibitions in § 18-608 of chapter 1.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties - special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of non-compliance. (a) Insignificant non-compliance: For the purpose of this guide, insignificant non-compliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to internally with a phone call or site visit but may include a Notice of Violation (NOV),

(b) "Significant noncompliance."

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC= 1.4 for BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-705(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(v) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of best management practices, which the WWF

determines will adversely affect the operation of implementation of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

Any significant non-compliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).[1]

(9) Public notice of the significant violations. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance is defined in section (8)(b) above.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (as added by Ord. #2017-08, June 2017)

18-706. Enforcement response guide table. (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this ordinance.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in Appendix A to impose sanctions or penalties for the violation of this ordinance. The table describes the type of escalating enforcement responses available to the town, identifies the officials responsible for each type of response, and lists penalty ranges for violation type. The acronyms used in the table are defined as:

PC - Pretreatment Coordinator or WWF Operator
S - Superintendent or Plant Manager
TA - Town Administrator or Town Attorney
VW - Verbal Warning
NOV - Notice of Violation
AO - Administrative Order
SCH - Show Cause Hearing
CP - Civil Penalty or Administrative Civil Penalty (as added by Ord. #2017-08, June 2017)

---

[1]Appendix A is available in the office of the town recorder.

18-707. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users 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) Types of charges and fees. The charges and fees as established in the town's schedule of charges and fees may include but are not limited to:

(a) Inspection fee and tapping fee;
(b) Fees for applications for discharge;
(c) Sewer use charges;
(d) Surcharge threshold fees (see Table 2);
(e) Waste hauler permit;
(f) Industrial wastewater discharge permit fees;
(g) Fees for industrial discharge monitoring; and
(h) Other fees as the town may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-702 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the town's sewer department at the time the application is filed.

(5) Sewer user charges. 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) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-707 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to reimburse the town for the costs incurred for necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violations are categorized in the Enforcement Response Guide Table (Appendix A). The local administrative officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 1	No penalty
Category 2	$100.00 - $1,000.00
Category 3	$1,000.00 - $5,000.00
Category 4	$5,000.00 - $10,000.00

(as added by Ord. #2017-08, June 2017)

18-708. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the town. (as added by Ord. #2017-08, June 2017)

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20

MISCELLANEOUS

CHAPTER.

1. AIR POLLUTION CONTROL CODE.

CHAPTER 1

AIR POLLUTION CONTROL CODE

SECTION

20-101. Words and phrases substituted in state regulations adopted by reference.
20-102. Open burning.
20-103. Severability of parts of chapter.
20-104. Enforcement--violations of chapter--notice; citation; injunctive relief.
20-105. Enforcement penalties--misdemeanor, civil, and noncompliance.
20-106. Enforcement--variances.
20-107. Enforcement--emergency powers of health officer.
20-108. Air pollution control hearing board--created; membership; term of officer; jurisdiction; hearings; appeals.
20-109. Nuisance abatement.
20-110. Fugitive dust.
20-111. Permits and fees--applicability and enforcement authority.
20-112. Permits and fees--permit fee schedule.
20-113. Permits and fees--emissions fee for stationary sources.
20-114. Permits and fees--payment of fees.
20-115. Permits and fees--allowable uses for emission fee.
20-116. Permits and fees--reporting requirements.
20-117. Permits and fees--small business waiver.
20-118. Permits and fees--surplus funds carry forward.
20-119. Permits and fees--penalty provisions.
20-120. Permits and fees--annual review of fee structure and financial need.
20-121. Regulation of particulate matter from incinerators.
20-122. Right of entry.

20-101. Words and phrases substituted in state regulations adopted by reference. For the purpose of enforcement of the Town of Arlington, Tennessee--Air Pollution Control Code, the following shall apply:

(1) Wherever the terms Air Pollution Control Board of the State of Tennessee, Tennessee Air Pollution Control Board, or Board appear, they shall be replaced by Memphis and Shelby County Air Pollution Control with the following exceptions:

(a)	8-5(109)	1200-3- 9-.04
(b)	8-5(107)	1200-3- 7-.06
(c)	8-5(106)	1200-3- 6-.01
(d)	8-5(114)	1200-3-14-.01(1)(a), and
(e)	8-5(111)	1200-3-1 1-.01(1)

(2) Wherever the terms Tennessee, State of Tennessee, or State appear, they shall be replaced by Town of Arlington with the following exceptions:

(a)	8-5(109)	1200-3-9-.04
(b)	8-5(114)	1200-3-14-.01(1)(a)

(c) When referring to Tennessee Code Annotated, and

(d) When referring to the Tennessee Air Quality Act

(3) Wherever the terms Technical Secretary of the Tennessee Air Pollution Control Board, Technical Secretary, or Secretary appear, they shall be replaced by Health Officer except in subparagraphs 8-5(5)(e)(2)(a) and (b) for the purposes of Tennessee Code Annotated § 68-201-1 16(b)(1).

(4) Wherever the terms "Department of Environment and Conservation of the State of Tennessee," "Tennessee Department of Environment and Conservation ," or "Department" appear, they shall be replaced by "Memphis and Shelby County Health Department."

(5) Wherever the terms Tennessee Air Pollution Control Division of Air Pollution Control, or Division appear, they shall be replaced by Memphis and Shelby County Health Department, Air Pollution Control Section.

(6) Wherever the term Tennessee Air Pollution Control Regulations or Regulations appear, they shall be replaced by Town of Arlington, Tennessee-Air Pollution Control Code.

(7) Wherever the term Nashville Office appears, it shall be replaced by Memphis and Shelby County Health Department.

(8) Wherever the term "State Civil Defense" appears, it shall be replaced by "Memphis and Shelby County Emergency Management Agency."

(9) Wherever the terms "Chapter 1200-3-26," "Rule 1200-3-26-.02'" or other citations involving "1200-3-26" appear, they shall be replaced by "Sections 8-5(11) through (21)." (Ord. #2003-01, April 2003)

20-102. Open burning. (1) No person shall cause, suffer, allow or permit open burning of refuse, garbage, trade waste, trees, limbs, brush, or materials from salvage operations. The open burning of tires and other rubber products, vinyl shingles and siding, other plastics, asphalt shingles and other asphalt roofing materials, and/or asbestos containing materials is expressly prohibited, and such materials shall not be lawful in any open burning conducted under the provisions of § 20-102(2).

(2) Open burning as listed below may be conducted without permit subject to fire department approval and provided further that no public nuisance is or will be created by the open burning.

(a) Fires used for the cooking of food or for ceremonial, recreational or comfort-heating purposes including barbecues and outdoor fireplaces. This exception does not include commercial food preparation facilities and their operation.

(b) Fires set for the training and instruction of firemen or for research in fire protection or prevention. However, routine demolition of structures via supervised open burning by responsible fire control persons will not be considered fire training. Additionally, the person responsible for such burning, unless conducted at a recognized fire training academy, must certify compliance with the following requirements by written statement. The certification must be delivered to the Pollution Control Section of the Memphis-Shelby County Health Department (Department) at least ten (10) working days prior to commencing the burn:

(i) The open burning is being conducted solely for fire training purposes.

(ii) All vinyl siding, carpet, vinyl flooring, asphalt roofing materials, and any other materials expressly prohibited in § 20-102(1), have been removed.

(iii) All regulated asbestos containing materials have been removed in accordance with Section 8-5(111) [Reference 1200-3-11-.02(2)(d)3.(x)].

(iv) A traffic hazard will not be caused by the air contaminants generated by the fire training.

(v) A public nuisance will not be created by the open burning.

(c) Smokeless flares or safety flares for the combustion of waste gases provided other applicable subsections of this section are met.

(d) Fires used for the reduction of leaves on the premises on which they fall by the person in control of the premises.

(e) Fire used for carrying out recognized agricultural procedures necessary for the production or harvesting of crops or for the control of disease or pests, in accordance with practices acceptable to the department.

(f) Fires for the burning of bodies of dead animals, including poultry, where no other safe and/or practical disposal method exists.

(g) Other open burning as may be approved by the health officer and with approval by the Fire Department, where there is no other practical, safe, and lawful method of disposal.

(3) Exceptions to subsection (1) may be permitted for vegetation if all of the following conditions are met when an air curtain destructor is used:

(a) A request is filed with the health officer giving the reason why no method except open burning can be employed to dispose of the material involved, the amount and kind of material to be burned, the exact location where the burning will take place, and the dates when the

open burning will be done. All changes in types of, or increases in quantities of, materials burned must be preceded by notification. The notification must be delivered to the department at least ten (10) working days prior to commencing the change in the burn.

(b) The person applying for the permit certifies, by written statement, compliance with following distance requirements, at a minimum:

(i) The open burning site must be at least five hundred (500) feet from any federal and from any state highway; and

(ii) The open burning site must be at least one thousand (1,000) feet from any school, national or state park, national reservation, national or state forest, wildlife area, and/or residence not on the same property as the air curtain destructor; and

(iii) The open burning site must be at least one-half (½) mile from any airport, nursing home or hospital.

(c) The plume from the air curtain destructor must meet the visible emission standards specified in Section 8-5(105) [reference 1200-3-5-.01(1)]; however, for certain materials the department may allow one start-up period in excess of the standard, per day, not to exceed twenty (20) minutes in twenty-four (24) hours.

(d) All material to be burned must be dry and in other respects be in a state to sustain good combustion. Open burning must be conducted when ambient conditions are such that good dispersion of combustion products will result. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils.

(e) No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn. No fire shall be ignited during any exceedance of the National Ambient Air Quality Standard for ozone, oxides of nitrogen, carbon monoxide, or particulate matter. Permittee is required to contact the Department's Computerized Local Air Index Reporting system (CLAIR) recorded line at (901) 544-7489 or 544-7490 before igniting a fire to determine if it is a Burning Day or a No-Burning Day.

(f) Approval is received from the health officer in writing.

(g) Permission is secured from the fire department in the jurisdiction involved.

(h) The burning will be done between the hours of 9:00 A.M. and 4:00 P.M. or as authorized by the health officer.

This approval will not relieve the person responsible for such burning from the consequences of any damages, injuries, or claims resulting from such burning.

(4) Definitions. (a) "Air curtain destructor" is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber with vertical walls in such a manner as to maintain a curtain of air over the surface of the burn

chamber and a recirculating motion of air under the curtain. The use of an air curtain destructor is considered controlled open burning.

(b) "Air pollution emergency episode" is defined as air pollution alerts, warnings, or emergencies declared by the health officer during adverse air dispersion conditions that may result in harm to public heath or welfare.

(c) "Health officer" is the Health Officer for Memphis and Shelby County.

(d) "Natural disaster" is defined as any event commonly referred to as an "act of God" and includes but is not limited to the following weather related or naturally occurring categories of events: tornadoes, hail and wind storms, snow or ice storms, flooding, and earthquakes.

(e) "Odor" is a sensation of smell perceived as a result of olfactory stimulation. An odor is deemed objectionable, and therefore a nuisance, when one third (1/3) or more of a sample of persons exposed to it believe it to be objectionable in usual places of occupancy. The sample size is to be at least twenty-five (25) persons, or when fewer than twenty-five (25) are exposed, one half (1/2) must believe it to be objectionable.

(f) "Open burning" is the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack.

(g) "Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, an agency, authority, commission, or department of the United States government, or of the State of Tennessee government; or any other legal entity, or its legal representative, agent, or assigns.

(5) Burning after natural disasters. (a) Open burning of materials resulting from a natural disaster, and when conducted in conformity with the following conditions, may be permitted:

(i) Fires disposing of structural and household materials and vegetation are allowed only when those structures or materials are destroyed or severely damaged by natural disaster. Input from emergency management personnel may be requested in determining qualification with this criteria. The provisions of this section pertaining to structural and household materials may be waived if the persons seeking to open burn under this provision make a reasonable effort to remove all expressly prohibited material from the structural remains before ignition. The department reserves the right to inspect the proposed materials to be burned before ignition. The alternative use of chippers and grinders, landfilling, or on-site burial of waste in lieu of burning, if lawful, is encouraged.

(ii) If a governmental collective burn site for disposing of structural and household materials and vegetation damaged by a natural disaster is planned, the person responsible for such burning must notify the department of the proposed location. The notification must be delivered to the department at least three (3) days prior to commencing the bum. The department may request that alternate sites be identified to minimize impact to air quality. The alternative use of chippers and grinders in lieu of burning is encouraged.

(iii) A traffic hazard shall not be caused by the air contaminants generated by the fire.

(iv) No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn. No fire shall be ignited during any exceedance of the National Ambient Air Quality Standard for ozone, oxides of nitrogen, carbon monoxide, or particulate matter. Contact the department's Computerized Local Air Index Reporting system (CLAW) recorded line at (901) 544-7489 or 544-7490 before igniting a fire to determine if it is a Burning Day or a No-Burning Day.

(v) Open burning conducted under this exception is only allowed where no other safe and/or practical means of disposal is available.

(b) The health officer reserves the right to require a person to cease or limit open burning if emissions from the fires are deemed by the health officer or his designee to jeopardize public health or welfare, create a public nuisance or safety hazard, create a potential safety hazard, or interfere with the attainment or maintenance of the air quality standards.

(c) Any exception to the open burning prohibition granted by this section does not relieve any person of the responsibility to obtain a permit required by any other agency, or of complying with other applicable requirements, ordinances, or restrictions. (Particular attention is directed to Tennessee Code Annotated, § 39-14-306, which prohibits open air fires between October 15 and May 15 within five hundred (500) feet of any forest, grasslands or woodlands without first securing a permit from the state forester in unincorporated portions of Shelby County.) (Ord. #2003-01, April 2003, as amended by Ord. #2016-11, Dec. 2016)

20-103. Severability of parts of chapter. The provisions of this Air Pollution Control Code are hereby declared to be severable, and if any sections, provisions, clauses, or parts be held unconstitutional or void, then the remainder of this Air Pollution Control Code shall continue in full force and effect, it being the legislative intent that this Air Pollution Control Code would have been

adopted even if such unconstitutional or void matter had not been included therein. (Ord. #2003-01, April 2003)

20-104. **Enforcement—violations of chapter—notice; citation; injunctive relief**. (1) Whenever evidence has been obtained or received establishing that a violation of this code has been committed, the health officer shall issue a notice to correct the violation or a citation to cease the violation. Such notice or citation shall briefly set forth the general nature of the violation and specify a reasonable time within which the violation shall be rectified or stopped. If the violation is not corrected within the time so specified, or the violation stopped, or reasonable steps taken to rectify the violation, the health officer shall have the power and authority to issue an order requiring the violator to cease or suspend operation of the facility causing the violation until the violation has been corrected, or initiate proceedings to prosecute the violator for violation of this code.

(2) In the event any person fails to comply with a cease or suspend operation order, that is not subject to a stay pending administrative or judicial review, the health officer shall institute proceedings in a court of competent jurisdiction for injunctive relief to enforce the regulation or orders pursuant hereto. (Ord. #2003-01, April 2003)

20-105. **Enforcement penalties—misdemeanor, civil, and noncompliance**. (1) Failure to comply with any of the provisions of the Town of Arlington, Tennessee-Air Pollution Control Code shall constitute a violation thereof and shall subject the person or persons responsible therefore to any and all of the penalties provided by law.

(2) The Memphis-Shelby County Health Department in conjunction with the local Air Pollution Control Board shall have authority, at their option, to institute and litigate proceedings for violations as set out therein. Any person who knowingly:

(a) Violates or fails to comply with any provision of the Town of Arlington, Tennessee--Air Pollution Control Code, any board or administrative order or any permit condition;

(b) Makes any false material statement, representation, or certification in any record, report, plan or other document required by permit to be either filed or maintained;

(c) Falsifies, tampers with, renders inaccurate or fails to install any monitoring device or method required to be maintained or followed; or

(d) Fails to pay a fee commits a Class C misdemeanor pursuant to the Tennessee Code Annotated with the fine not to exceed ten thousand dollars ($10,000) per day per violation. For the purpose of this section, each day of continued violation constitutes a separate offense and is punishable as such.

No warrant, presentment or indictment arising under § 20-105(2) shall be issued except upon application, authorized in writing, by the health officer on behalf of the local air pollution control program operating under a certificate of exemption pursuant to Tennessee Code Annotated § 68-201-115, for a violation within its jurisdiction.

(3) Willful and knowing violation of any provision of the Town of Arlington, Tennessee--Air Pollution Control Code is declared to be a misdemeanor, and each day of violation shall constitute a separate offense. Conviction of a misdemeanor is punishable with the fine not to exceed ten thousand dollars ($10,000) per day per violation or with imprisonment not greater than thirty (30) days, or both.

(4) In addition and supplemental to any criminal action which may be prosecuted under this section, the health officer has and is vested with jurisdiction and authority to determine whether or not any provision of the Town of Arlington, Tennessee-Air Pollution Control Code, any permit condition, or any order has been violated, and whether or not such violation constitutes a public nuisance. Upon such finding that a public nuisance exists, the health officer has authority to abate any such public nuisance in the manner provided by the general law relating to the abatement of public nuisances.

(5) Orders and assessments of damages and civil penalties and appeals. (a) When the health officer discovers that any provision of the Town of Arlington, Tennessee--Air Pollution Control Code has been violated, the Health Officer may issue an order for correction to the responsible person, and this order shall be complied with within the time limit specified in the order. Such order shall be served by personal service or sent by certified mail, return receipt requested. The recipient of such an order may appeal in the same manner as with an assessment of damages or civil penalty under subsection (b) of this section.

(b) (i) In addition to the criminal penalties in this section, any person who violates or fails to comply with any provision of the Town of Arlington, Tennessee--Air Pollution Control Code or any standard adopted pursuant thereto in a permit, shall be subject to a civil penalty of up to twenty-five thousand dollars ($25,000) per day for each day of violation. Any person against whom an assessment in excess of ten thousand dollars ($10,000) for each violation has been issued by a local pollution control program pursuant to this section may petition the technical secretary for de novo review of the assessment under the provisions of Tennessee Code Annotated, § 68-201-116. The technical secretary shall render an initial determination, and that initial determination may be appealed to the Tennessee Air Pollution Control Board pursuant to this section. Each day such violation continues constitutes a separate punishable offense, and such person shall also be liable for any damages to the municipality resulting therefrom.

(ii) Any civil penalty or damages shall be assessed in the following manner:

(A) The health officer on behalf of the Memphis-Shelby County Health Department operating under a certificate of exemption pursuant to Tennessee Code Annotated, § 68-201-115 may issue an assessment against any person responsible for the violation or damages. Such person shall receive notice of such assessment by certified mail, return receipt requested,

(B) Any person against whom an assessment has been issued may appeal the assessment by filing a petition for review with the health officer, or with the technical secretary of an assessment in excess of ten thousand dollars ($10,000) for each violation, within thirty (30) days after receipt of the assessment, setting forth the grounds and reasons for such person's objections and requesting a hearing on the matter; and

(C) 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.

(iii) In assessing such civil penalty, the factors specified in Tennessee Code Annotated, § 68-201-106 and Title 42 U.S.C. §§ 7413 and 7420 may be considered. Damages to the state or to the Town of Arlington may include any expenses incurred in investigating the enforcing of this section; in removing, correcting, or terminating the effects of air pollution; and also compensation for any expense, loss or destruction of plant or animal life or any other actual damages or clean-up expenses caused by the pollution or by the violation. The plea of financial inability to prevent, abate or control pollution by the polluter or violator shall not be a valid defense to liability for violations of the provisions of the Town of Arlington, Tennessee--Air Pollution Control Code.

(iv) The issuance of an order or assessment of civil penalty by the Memphis-Shelby County Health Department operating under a certificate of exemption as provided for in this section is intended to provide additional and cumulative remedies to prevent, abate and control air pollution in Tennessee. Nothing herein shall be construed to preempt supersede, abridge or otherwise alter any rights, action or remedies of the Technical Secretary, Tennessee Air Pollution Control Board or Commissioner of the Tennessee Department of Environment and Conservation.

(v) (A) Whenever any order or assessment under this section has become final, a notarized copy of the order or

assessment may be filed in the office of the clerk of the chancery court of Shelby County if the final order or assessment is from the Memphis-Shelby County Health Department.

(B) When filed in accordance with subsection (v)(A), a final order or assessment shall be considered as a judgment by consent of the parties on the same terms and conditions as those recited therein. Such judgment shall be promptly entered by the court. Except as otherwise provided in this section, the procedure for entry of the judgment and the effect thereof shall be the same as provided in Tennessee Code Annotated, title 26, chapter 6.

(C) Within forty-five (45) days after entry of a judgment under subsection (v)(B), any citizen of the Town of Arlington shall have the right to intervene on the ground that the penalties or remedies provided are inadequate or are based on erroneous findings of facts. Upon receipt of a timely motion to intervene, the court shall determine whether it is duplicitous or frivolous, and shall notify the movant and the parties of its determination. If the motion is determined not to be duplicitous or frivolous, all parties shall be considered to have sought review of the final order or assessment, and the court shall proceed in accordance with Tennessee Code Annotated, § 4-5-322. If no timely motion to intervene is filed, or if any such motion is determined to be duplicitous or frivolous, the judgment shall become final forty-five (45) days after the date of entry.

(D) A final judgment under this subsection has the same effect, is subject to the same procedures, and may be enforced or satisfied in the same manner, as any other judgment of a court of record of this state. (Ord. #2003-01, April 2003)

20-106. Enforcement—variances. (1) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment including a group of persons who own or control like processes or like equipment may apply to the Air Pollution Control Hearing Board, hereinafter referred to as "the Board", for a variance from rules or regulations governing the quality, nature, duration or extent of discharge of air contaminants. The application for a variance shall include information and data sufficient for the Board to make the findings required below. The hearing held hereunder shall be conducted in accordance with the rules of evidence as set forth in § 20-108(6) of this chapter. The board may grant such variance, but only after public hearing on due notice

and subject to the Certificate of Exemption issued pursuant to Tennessee Code Annotated, § 68-201-115 if it finds that:

(a) The emissions proposed to occur as a result of a variance would not endanger or tend to endanger human health, safety, or welfare, and would not cause or tend to cause property damage; and

(b) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public or a variance is needed only until a rule adopted by the Tennessee Air Pollution Control Board becomes state effective. If economic hardship is claimed, a description of expected monetary losses shall be included.

(2) No variance shall be granted or denied pursuant to this section until the board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and others who may be affected by granting or denying a request for variance.

(3) Any variance or renewal thereof shall be granted within the requirements of subsection (1) for time periods and under conditions consistent with the reasons therefore, and with the following limitations:

(a) If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement, or control of the air pollution involved, the variance shall be permitted only until the necessary means for prevention, abatement, or control become known and available, and the variance shall be subject to the taking of any substitute or alternate measures that the board may prescribe.

(b) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in view of the board, is requisite for the taking of necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable and submittal of proof that such timetable is being met.

(c) Any variance or renewal granted shall be for a time period not to exceed one (1) year.

(4) Any variance granted pursuant to this section may be renewed by the Air Pollution Control Hearing Board on terms and conditions and for periods which would be appropriate on initial granting of the variance following the same procedures required for issuance of the initial variance. If complaint is made to the board on account of the variance, no renewal thereof shall be granted, unless, following public hearing on the complaint, the board finds that renewal is justified. No renewal shall be granted except on application therefore. Any such application shall be made at least sixty (60) days prior to the

expiration of the variance. Immediately upon a receipt of an application for renewal, the board shall give public notice of such application in accordance with rules and regulations of the board.

(5) A variance or renewal shall not be a right of the applicant or holder thereof, but shall be in the discretion of the board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the board may obtain judicial review thereof only in a court of competent jurisdiction.

(6) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of §§ 20-107 and 8-5(115) [Reference 1200-3-15] to any person or his property. (Ord. #2003-01, April 2003)

20-107. **Enforcement—emergency powers of health officer**. (1) Any other provisions of the law notwithstanding, if the health officer finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the health officer shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants. Upon issuance of any such order, the health officer shall fix a place and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the Air Pollution Control Hearing Board. Such hearing shall be held in conformity with the provisions of § 20-108, insofar as applicable. Not more than twenty-four (24) hours after the commencement of such hearing, and without adjournment thereof, the Air Pollution Control Hearing Board shall affirm, modify or set aside the order of the health officer.

(2) In the absence of a generalized condition of air pollution of the type referred to in subsection (1) of this section, but if the health officer finds that emissions from the operation of one or more air contaminant sources is causing imminent danger to human health or safety, he may order the person responsible for the operation in question to reduce or discontinue operations immediately, without regard to the provisions of this chapter. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in subsection (1) of this section shall apply. (Ord. #2003-01, April 2003)

20-108. **Air pollution control hearing board—created; membership; term of officer; jurisdiction; hearings; appeals**. (1) There is hereby created the Memphis and Shelby County Air Pollution Control Board, hereinafter referred to as "the board" to be composed of nine (9) members to be appointed as described in (a) and (b) below. No member of the board shall hold any elective office or receive any governmental salary except as a member of the faculty or staff of a school in the Tennessee education system. Otherwise, all members shall serve without compensation. Any member of the board who has

any conflict of interest or potential conflict of interest shall make adequate disclosure of it and abstain from matters related to it.

(a) Eight (8) members of the board are to be appointed jointly by the Mayor of the City of Memphis and the Mayor of Shelby County and confirmed by both the Memphis City Council and the Shelby County Board of Commissioners. These eight (8) members shall consist of the following: One professional engineer knowledgeable in the field of air pollution control, one physician licensed to practice in Tennessee, one attorney licensed to practice law in Tennessee, one member of academia, a representative of industry at large, and such other citizen members as may be appointed, except that industry may have no more than two (2) representatives.

(b) One member of the board is to be appointed by the Executive Committee of the Memphis Area Association of Governments. This member is to be a representative for the municipalities of Arlington, Bartlett, Collierville, Germantown, Lakeland, and Millington and is to be a citizen of one of these communities.

(2) The terms of the members shall be four (4) years except that of the initially appointed members, of which three (3) shall serve for four (4) years, two (2) shall serve for three (3) years, two (2) shall serve for two (2) years and two (2) shall serve for one year as designated at the time of appointment. Whenever a vacancy occurs, the vacancy shall be filed for the unexpired term in the same manner as the original appointment. Should the term of any board member expire without a replacement member being appointed, the existing member shall continue to hold the board membership until such appointment or reappointment occurs.

(3) The board shall select annually a chairman from among its members. The board shall hold at least four (4) regular meetings each year and such additional meetings as the chairman deems necessary. All hearings conducted by the board shall be open to the public. The health director shall act as secretary to the board and shall keep records of its hearings and other official actions. All hearings shall be held before not less than a majority of the board.

(4) The board is hereby vested with the following jurisdiction and authority:

(a) Grant, deny or revoke variance applications.

(b) To decide appeals from any decisions, rulings, or determinations of the health director or his designated representative under this Air Pollution Control Code.

(c) To hear appeals arising from the failure of the health director or his designated representative to act within a reasonable period on complaints under this Air Pollution Control Code.

(5) Any person taking exception to and who is uniquely affected by any decision, ruling, requirement, rule, regulation, or order of the health director or by his failure to act within a reasonable amount of time may take an appeal to

the board as established by this section. Such appeals shall be made within fifteen (15) days after receiving notice of such decision, ruling, requirement, rule, regulation, or order or failure to act by filing a written notice of appeal directly to the board specifying the ground thereof and the relief requested. Such an appeal shall act as a stay of the decision, ruling, requirement, rule, regulation or order in question until the board has taken final action on the appeal, except when the health director has acted under § 20-107, "Emergency Order" or except when an appeal has been filed pursuant to Section 8-5(109) [Reference 1200-3-9-.05(8)]. The board, not more than thirty (30) days after the date of filing an appeal, shall set a date for the hearing not more than sixty (60) days after the date of filing of the appeal and shall give notice thereof by mail to the interested parties.

(6) Hearings before the board shall be conducted in the following manner:

(a) Notice of any and all hearings shall be given at least fifteen (15) days prior to the scheduled date of the hearing by public advertisement in a newspaper of general circulation in Shelby County, Tennessee giving the date, time, place and purpose of the hearing; and

(b) The chairman of the board shall act as the hearing examiner to conduct such hearing; and

(c) Any person seeking a variance or any party who has filed a written notice of appeal pursuant to § 20-108 or Section 8-5(109) [Reference 1200-3-9-.05], may appear in person or by agent or attorney and present evidence, both written or oral, relevant to the questions and issues involved and may examine and cross examine witnesses.

(d) All testimony shall be under oath and recorded. The board is authorized to have all testimony transcribed and a transcript of such testimony, if transcribed, shall be made available to the respondent or any party to the hearing upon payment of the normal fee, which shall not exceed the cost of transcribing such testimony.

(e) After due consideration of the written and oral statements, the testimony and arguments submitted at the hearing upon such complaint, or, upon default in appearance of the respondent on the return date specified in the formal notice of complaint, the board shall issue and enter such final order or make such final determination as it shall deem appropriate not later than sixty (60) days after the hearing date, and shall immediately notify the respondent thereof, in writing, by certified mail. Such order or determination shall be approved by at least a majority of members to which the board is entitled.

(f) Upon failure of the board to enter a final order or determination within sixty (60) days after the final argument of such hearing, the respondent shall be entitled to treat for all purposes such failure to act as a finding favorable to the respondent.

(g) The burden of proof shall be on the health director or his duly authorized representative where appeal has been sought pursuant to § 20-108 or Section 8-5(109) [Reference 1200-3 9-.04]. The burden of proof is on the applicant where a variance has been sought pursuant to § 20-106, in accordance with Tennessee Code Annotated, § 68-201-118(k).

(h) Any person aggrieved by any final order or determination of the Board hereunder shall have judicial review thereof by writ of certiorari pursuant to Tennessee Code Annotated, § 27-9-101 et seq. No judicial review shall be available until and after all administrative remedies have been exhausted. (Ord. #2003-01, April 2003)

20-109. Nuisance abatement. (1) When dust, fumes, gases, mist, vapors, or any combination thereof escape from a building or equipment in such a manner and amount as to cause a nuisance or to violate any regulation, the health officer may order that the building or equipment in which processing, handling and storage are done be tightly closed and ventilated in such a way that all air and gases and air or gas-borne material leaving the building or equipment are treated by removal or destruction of air contaminants before discharge to the open air.

(2) No person shall cause, suffer, allow, or permit any air contaminant source to be operated without employing suitable measures for the control of the emission of objectionable odors. Suitable measures shall include permit limitations, wet scrubbers, incinerators, or such other devices as may be approved by the health officer. (Ord. #2003-01, April 2003)

20-110. Fugitive dust. No person shall cause, suffer, allow, or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, but not be limited to, the following:

(1) Use, where possible, water or chemicals for control of dust in the demolition of existing building or structures, construction operations, the grading of roads or the clearing of land;

(2) Application of asphalt, oil, water, or suitable chemicals on material stockpiles, and other surfaces which can create airborne dusts;

(3) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting or other similar options;

(4) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne;

(5) Conduct of agricultural practices such as tilling of land, application of fertilizers, etc. in such manner as to not create a nuisance to others residing in the area.

(6) The paving of roadways and their maintenance in a clean condition.

(7) The prompt removal of earth or other material from paved street which earth or other material has been transported thereto by trucking or earth moving equipment or erosion by water. (Ord. #2003-01, April 2003)

20-111. **Permits and fees—applicability and enforcement authority**. (1) The provisions of this section on permit fees shall apply to any person required to make application on or after July 1, 1992, to the Memphis-Shelby County Health Department for issuance, re-issuance or modification of a permit in accordance with this chapter and Air Pollution Control Code, and shall be subject to the fee schedule set out in § 20-112. The provisions of this chapter on emissions fees shall apply to any person holding or obtaining a valid air pollution permit from the Memphis and Shelby County Health Department on or after July 1, 1992, and shall be subject to the fees set out in § 20-119.

(2) The Memphis-Shelby County Health Department (hereinafter referred to as the Department) is designated to carry out and enforce the provisions of this Air Pollution Control Code and to promulgate any regulations consistent with it as may be required for proper administration of the fee system created herein. (Ord. #2003-01, April 2003)

20-112. **Permits and fees—permit fee schedule**. Fees for permits are hereinafter set out as follows, and shall apply to any "person" as defined in this chapter.

(1) Construction permits. (a) Any person making application to the Shelby County Health Department for a construction permit shall pay an initial filing fee of two hundred dollars ($200.00) per permit unit. This filing fee shall not be refundable if the permit is denied or if the application is withdrawn, nor shall it be applied to any subsequent application.

(b) In addition to the fees in (1)(a) above, the largest of the following fees, if applicable, shall be paid:

(i) Prevention of significant deterioration (PSD) review $3,960

(ii) Major source or major modification review, except PSD sources review, requiring modeling $2,640

(iii) Minor source or minor modification review requiring modeling $660

(iv) New Source Performance Standard (NSPS) source review, per permit unit $660

(v) National Emission Standards for Hazardous Air Pollutant (NESHAP) source review, per permit unit $660

(2) Inspection/operating permit. (a) Any person making application to the Shelby County Health Department for an inspection/operating permit shall pay the larger of the applicable fees in accordance with the following schedule:

(i) Asbestos demolition/renovation removal, per notice $130
(ii) Air Curtain destructor, per permit unit $130
(iii) NSPS Source, per permit unit $130
(iv) NESHAP source, per permit unit $130
(v) Any source issued a permit pursuant to local rules implementing Title 40, Code of Federal Regulations, Section 70 (Major Source Permits) $2,000
(vi) Any permit unit with actual emissions of 50 tons or more a year, but less than 100 tons per year of any single pollutant $130
(vii) Any permit unit with actual emissions of 25 tons or more per year, but less than 50 tons per year of a single pollutant $100
(viii) Any permit unit with actual emissions of less than 25 tons per year of a single pollutant $65
(ix) Any permit issued as the result of a permit by rule or annual notification and general standards application to a particular business or business group $130
(x) Any source issued an operating permit for which a construction permit was never obtained (Enforcement action may also apply) $265

(b) No portion of the inspection/operating fee shall be refundable in the event the source discontinues operation or service during the permitted period.

(3) Modification of a permit. (a) Any person making application to the Shelby County Health Department for the modification of a permit shall pay a fee for each permit unit being modified, except that no fee is required for modification of a permit to correct clerical, typographical, or calculations errors. This fee shall be set as follows:

(i) If the modification is anticipated to result in an increase in all pollutants less than 10 tons per year $130
(ii) If the modification is anticipated to result in an increase in all pollutants equal to or

greater than 10 tons per year, but less than 50 tons per year $330

(iii) If the modification is anticipated to result in an increase in all pollutants equal to or greater than 50 tons per year $660

(iv) Name Change $130

(v) Ownership Change - New owner pays Inspection and Operating Fees (based on tonnage) . . . . Varies based on Tonnage Fees

(vi) Address Change - New owner pays Inspection and Operating Fees (based on tonnage) for the new address . . . . $265 Plus Tonnage Fees

(vii) Permit Revision (with no emissions consequences) $130

(4) Stack sampling. (a) If a source is required to demonstrate compliance by stack sampling its emissions, it shall pay the following additional fees:

(i) Any testing requiring US/EPA methods 1 through 4 only, per stack test $130

(ii) Particulate emissions testing requiring US/EPA Method 5, per stack test $400

(iii) Any other pollution testing by Methods other than US/EPA Method 5, (excepting those subject to subsection (d)(1)(a) of this section, per stack test $660

(b) Any retest required to demonstrate compliance shall be subject to the fee schedule as stated in subsections (4)(a)(i) through (iii) of this section. (as replaced by Ord. #2016-11, Dec. 2016)

20-113. Permits and fees—emissions fee for stationary sources.

(1) Emissions fee. A fee shall be collected annually from each stationary air pollution source which emits more than one ton of actual emissions annually of a regulated pollutant as defined herein, called the "emissions fee," which shall equal the amount determined by the requirements set forth as follows: Forty-eight dollars ($48.00)[1] per ton of actual emission

---

[1]This is the effective emissions fee rate (after adjustment for carryover overage) approved by the Town of Arlington.

Approved rate	Adopted in	Effective rate	Applicable to

(continued...)

emitted during calendar year 2013 to be collected beginning in 2015 and for successive years until such time as the Aldermen approve a further increase or decrease, not including fugitive emissions and actual excess emissions that are the result of process malfunctions and facility start-up and shutdown determined by the Shelby County Health Department to be in compliance with the air pollution code sections that excuse these emissions from enforcement of each regulated pollutant as defined in § 502(b)(3)(B)(ii) of the Federal Clean Air Amendments of 1990.

---

[1](...continued)

$9.00	1992	$9.00	1991 Emissions
$18.00	1993	$18.00	1992 Emissions
$19.00	1994	$17.10	1993 Emissions
$29.65	1995	$29.65	1994 Emissions
--	--	$29.65	1995 Emissions
--	--	$29.65	1996 Emissions
$29.65	1998	$29.65	1997 Emissions
$29.65	1999	$29.65	1998 Emissions
$29.65	2001	$29.65	1999 Emissions
$29.65	2001	$29.65	2000 Emissions
$29.65	2003	$29.65	2002 Emissions
$29.65	2004	$26.68	2003 Emissions
$30.63	2005	$27.57	2004 Emissions
$31.67	2006	$28.50	2005 Emissions
$30.00	2008	$27.00	2006 Emissions
$30.00	2009	$27.00	2007 Emissions
$43.00	2012	$43.00	2011 Emissions
$48.00	2014	$48.00	2013 Emissions

(2) Maximum amount subject to emissions fee. Each stationary air pollution source shall be assessed the emissions fee on no more than four thousand (4,000) tons per year of each regulated pollutant it emits.

(3) Exemption for units subject to section 404 provisions of the clean air amendments of 1990. No fee will be charged until the year 2000 with respect to emissions from any unit which is classified as "an affected unit" under section 404 of the Clean Air Act Amendments of 1990, entitled "Phase I Sulfur Dioxide Requirements." (Ord. #2003-01, April 2003, as replaced by Ord. #2016-11, Dec. 2016)

20-114. Permits and fees—payment of fees. (1) Any person acquiring a permit shall be subject to the following payment of permit fees and the following procedure shall be used in payment thereof:

(a) Initial filing fees for construction permits must be submitted with the initial permit applications.

(b) Additional fees related to construction permits including those related to public notice are due within thirty (30) days of receipt of billing by the department.

(c) Fees related to stack testing are due within thirty (30) days of receipt of billing by the department.

(d) Inspection/operating fees are assessed annually on the anniversary date of the issuance of the permit where applicable.

(i) Fees for asbestos removal must be submitted with the written notice of intent to remove.

(ii) Fees for air curtain destructors must be submitted within ten (10) days of receipt of permit.

(e) Fees related to modification of a permit shall be submitted with the permit application.

(f) Fees related to public notice necessary for the regulation of a source shall be due within thirty (30) days of receipt of billing by the department.

(2) If the emissions fees assessed to a stationary air pollution source are less than five thousand dollars ($5,000), the fees owed shall be submitted by September 30 of the year following the year the emissions occurred. If more than five thousand dollars ($5,000) is owed, then the amount due shall be submitted by January 31 of the year two (2) years after the emission occurred. (Ord. #2003-01, April 2003)

20-115. Permits and fees—allowable uses for emissions fee. The department shall collect an annual emissions fee from those entities within the Town of Arlington which operate stationary air pollutant sources required to make application on or after July 1, 1992, to the Memphis-Shelby County Health Department for issuance, re-issuance or modification of a permit in accordance with the Town of Arlington, Tennessee--Air Pollution Control Code,

and shall be subject to the fee schedule set out in § 20-112. This fee shall be used for:

(1) Reviewing and acting upon any application for a permit or permit modification under the Town of Arlington, Tennessee-Air Pollution Control Code as amended;

(2) Implementing and enforcing the terms and conditions of any permit issued under the Town of Arlington, Tennessee-Air Pollution Control Code, provided, however, such cost shall not include any court cost or other costs associated with any judicial enforcement action;

(3) Emissions and ambient monitoring and inspection of source operated monitoring programs;

(4) Preparing generally applicable regulations or guidance;

(5) Modeling, analyses and demonstration;

(6) Preparing inventories and tracking emissions.

(7) Development of and support for the small business stationary source technical and environmental compliance assistance program as it applies to part 70 sources.

(8) Information management activities to support and track permit applications, compliance certifications and related data entry.

The emission and annual operating/inspection fees collected from major stationary air pollution sources as defined herein, shall be used exclusively for and be sufficient to pay, the direct and indirect costs of the major stationary source operating permit program allowable under the Federal Clean Air Act and under regulations in support of those federal provisions as adopted locally in the Town of Arlington, Tennessee-Air Pollution Control Code. The owner or operator of any stationary source shall also pay any cost of expense associated with public notices or notifications required pursuant to the Town of Arlington, Tennessee-Air Pollution Control Code or the Federal Clean Air Act. (Ord. #2003-01, April 2003)

20-116. Permits and fees—reporting requirements. (1) Except as provided below, each permitted stationary air pollution source must submit to the department an annual report that establishes the amount of actual emissions of each regulated pollutant, including carbon monoxide, for that source. This report will be for the emissions of that source that occurred during the calendar year starting in 1991 and continuing for succeeding years thereafter. The department may request, and the air pollution source shall provide, additional information on the emissions data submitted when the department determines, the data previously provided is inadequate to establish the actual type or amount of emissions from the source subject to fees.

(2) Not including air toxics as they are defined in the Clean Air Act Amendments of 1990 and the amendments thereto, if the source emits fewer than twenty five (25) tons of actual emissions of pollutant during a year, it may at its option, use as the actual emissions figure, its permitted pollutant levels

where available and known. If the source is a "major source" under the air toxics provisions of the Clean Air Act Amendments of 1990 it too must calculate its actual emission of regulated pollutants. Failure to provide, on a timely basis, any additional information requested shall be considered failure to pay the fees. (Ord. #2003-01, April 2003)

20-117. **Permits and fees—small business waiver**. The director of the department, in his discretion but consistent with section 507 (f) of the Clean Air Act Amendments of 1990, may, upon written petition setting forth in detail the justification therefore, reduce or waive for up to three (3) years, any emissions fee required under this chapter to take into account the financial resources of small business stationary air pollution sources as defined under the federal act or regulations promulgated pursuant thereto. A decision to deny the waiver may be appealed to the local air pollution control board by the party requesting the waiver and will be heard under the same procedures as any other decision that is appealed to this board. If a waiver is granted, it will be reviewed by the board in its annual review process and is then subject to revocation or modification by the board if found to be unwarranted or granted in an arbitrary fashion. Such action will have no effect on prior years emissions fees and will only apply to the collection of future emissions fees. (Ord. #2003-01, April 2003)

20-118. **Permits and fees–surplus funds carry forward**. Any surplus in emissions fee funds shall be carried forward from year to year for these stated purposes only. If, however, in any year after 1993, this carry forward surplus exceeds on February 15th thirty five percent (35%) of the previous twelve (12) months fee, a ten percent (10%) per ton credit on the established emissions fee amount shall be given to all stationary sources in the next emissions fee payment. (Ord. #2003-01, April 2003)

20-119. **Permits and fees—penalty provisions**. Failure to pay the fees set forth in this Air Pollution Control Code shall be a violation of the Town of Arlington, Tennessee--Air Pollution Control Code and can result in the assessment of penalties and injunction against the stationary air pollution source. In addition to any fees owed, a maximum penalty equal to fifty percent (50%) of the fees owed may be assessed for late payment. Interest in the amount equal to the maximum allowed under state law shall also be charged for all fees paid more than thirty (30) days late. When an emissions fee amount is contested, only the contested portion can be withheld. Any uncontested fee amount must be paid by the due date for payment. Due process for contested amounts is provided by appeal under the administrative and judicial review provisions of the Town of Arlington, Tennessee--Air Pollution Control Code for appeal of decisions of the health officer. (Ord. #2003-01, April 2003)

20-120. <u>Permits and fees—annual review of fee structure and financial need</u>. The Memphis-Shelby County Air Pollution Control Board shall annually review the fee structure established for the local air pollution control program and recommend to the Shelby County Commission any change in rate or make-up of the fee it determines, after public hearing, is necessary to meet the financial requirements of the Memphis-Shelby County Health Department Air Pollution Control Program to fulfill the activities allowed to be funded by these fees. Such review shall include an estimate of other funds available to the program including surplus or carry forward funds as well as changes in state or federal laws that could effect the program. The recommendation shall be provided to the commission no later than April 1 of each year. The county commission shall not, however, be required to adopt this recommendation, nor to change fees on any predetermined schedule. If the Shelby County Commission adopts a change in the rate or makeup of the fee, that adoption shall be provided to the Arlington Board of Mayor and Aldermen for adoption prior to collection of changed emission fees by the Memphis-Shelby County Health Department. (Ord. #2003-01, April 2003)

20-121. <u>Regulation of particulate matter from incinerators</u>. (1) No person shall cause, suffer, allow or permit the emissions from any incinerator having a charging rate of two thousand (2,000) pounds per hour or less, fly ash or other particulate matter in quantities exceeding 0.2 grains per cubic foot of flue gas at standard conditions corrected to twelve percent (12%) carbon dioxide by volume excluding the contribution of auxiliary fuel.

(2) No person shall cause, suffer, allow or permit the emissions from any incinerator having a charging rate greater than two thousand (2,000) pounds per hour, fly ash or other particulate matter in quantities exceeding 0.1 grains per standard cubic foot of flue gas at standard conditions corrected to twelve percent (12%) carbon dioxide by volume excluding the contribution of auxiliary fuel.

(3) No person shall cause, suffer, allow or permit the emissions of particles of unburned waste or ash from any incinerator which are individually large enough to be visible while suspended to the atmosphere.

(4) No person shall construct, install, use or cause to be used any incinerator which will result in odors being detectable by sense of smell in any area of human use or occupancy.

(5) No person shall install or construct an incinerator to be used for disposal of combustible waste from dwelling units if such incinerator is to be used to burn such wastes produced by fewer than twenty-five (25) dwelling units.

(6) No person shall use or cause to be used any incinerator unless all components connected to or attached to, or serving the incinerator, including control apparatus, are functioning properly and are in use. Incinerators shall be operated so as to comply with recognized good practices.

(7) Incinerators having two and one-half (2.5) cubic feet furnace volume or less used solely for the disposal of infective dressings and other similar material shall not be required to meet these emission standards.

(8) No person shall cause, suffer, allow, or permit to be discharged into the atmosphere from any incinerator, visible emissions with an opacity in excess of twenty percent (20%). (Ord. #2003-01, April 2003)

20-122. **Right of entry**. For the purpose of carrying out the requirements of the Town of Arlington, Tennessee--Air Pollution Control Code, the health officer and his authorized representatives, including engineers, assistants, environmentalists and other employees, shall be permitted at all reasonable times to enter into any manufacturing plants, business buildings or other buildings, and all lots, grounds and premises, in order to thoroughly examine any items in relation to public health and air pollution thereon and therein. (Ord. #2003-01, April 2003)

ORDINANCE NO. 2005-24

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

WHEREAS some of the ordinances of the Town of Arlington 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 Arlington, 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 "Arlington Municipal Code," now, therefore:

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

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

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

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

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

Section 4. Continuation of existing provisions. Insofar as the provisions of the 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.

---

[1]State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 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.

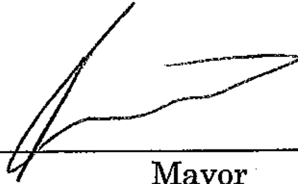
Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

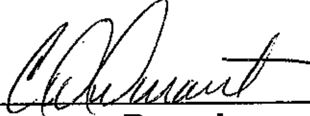
Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, November 7, 2005.

Passed 2nd reading, December 5, 2005.



Mayor



Recorder