

**THE
BAILEYTON
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

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TOWN OF BAILEYTON, TENNESSEE

MAYOR

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ALDERMEN

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RECORDER

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TOWN ATTORNEY

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PREFACE¹

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

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

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

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

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

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

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

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

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

Abb Oglesby
Legal Program Manager

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

Section 2.06. Town legislation—when ordinances necessary; required wording; readings required; emergency ordinances; official code; standard codes; publication.

(a) Any action of the Board having a regulatory or penal effect, relating to revenue or appropriation of money, awarding franchises, authorizing the borrowing of money, conveying or leasing or authorizing conveyance or lease of any lands of the Town, or required to be done by ordinance under this Charter or the general laws of the state, shall be done only by ordinance. Other actions of the Board may be accomplished by resolutions or motions. Ordinances and resolutions shall be written form before being introduced, and a copy shall be furnished to each member of the Board in advance of the meeting at which introduced. The enacting clause of ordinances shall be "Be it ordained by the Board of Mayor and Aldermen of the Town of Baileyton". No action of the Board of Aldermen shall be valid or binding unless approved by the affirmative vote of at least a majority of the Board. Any ordinance which repeals or amends existing ordinances shall set forth at length the sections or subsections repealed or as amended. Every ordinance except an emergency ordinance must be approved on two (2) readings not less than one week apart, and shall become effective after final approval unless its terms provide a later effective date. Every ordinance shall be read by caption only at each reading. Each resolution shall be read by caption only and shall become effective when adopted unless its terms provide otherwise. To meet a public emergency affecting life, health or property, an emergency ordinance may be adopted on two (2) readings on separate days and become effective immediately, by the affirmative votes of four (4) members of the Board, if the ordinance contains a full statement of the facts creating the emergency, but any emergency ordinance shall be effective for only 90 days. Appropriations, revenues, franchises, levy of taxes or special privileges shall not be passed as emergency ordinances. Borrowing money may be passed as an emergency ordinance but must be paid back the same or following fiscal year.

(b) The Board shall have the general and continuing ordinances of the Town assembled into an official code of the Town, a copy of which shall be kept currently up to date by the Town Recorder and shall be available to the public. After adoption of

the official code all ordinances shall be adopted as additions to, deletions from or amendments to the code.

(c) Standard codes, as defined in Section 1.02(f), may be adopted by ordinances which contain only references to titles, dates, issuing organizations and such changes to the standard codes as the council may deem desirable. Procedure prescribed by general law shall be followed when adopting such standard codes. Copies of the official code and any standard codes so adopted by reference shall be available to the public at prices fixed by the council.

(d) The original copies of ordinances, resolutions, contracts and other documents shall be filed and preserved by the Town Recorder.

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

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

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

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

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 7:00 P.M. on the second Tuesday of each month at the town hall. If the regular meeting falls on a holiday, or on a day observed as a holiday, the regular meeting shall be held at the same time and place on the next regular work day. (Ord. #10142020, Oct. 2020)

1-102. Order of business. At each regular monthly meeting of the board of mayor and aldermen, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.

¹Municipal code references

- Utilities: titles 18 and 19.
- Wastewater treatment: title 18.
- Zoning: title 14.

²Charter references

- Election of mayor and aldermen: § 2.01.
- Mayor: § 3.02.
- Oath: § 3.09.
- Ordinance procedure: § 2.06(a).
- Town recorder: § 3.03.
- Vacancies in office: § 2.05.
- Vice mayor: § 2.04.

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

1-103. General rules of order. The rules of order and parliamentary procedure contained in *Robert's Rules of Order, Newly Revised*, shall govern the transaction of business by and before the board of mayor and 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. (2005 Code, § 1-103)

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

CHAPTER 2**MAYOR¹****SECTION**

1-201. Duties of mayor.

1-202. Executes town's contracts.

1-201. Duties of mayor. The mayor shall perform such duties as provided by the charter and any ordinances duly enacted by the board of mayor and aldermen consistent with the charter. (2005 Code, § 1-201)

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (2005 Code, § 1-202)

¹Charter references

Duties of mayor: § 3.02.

Vacancies in office: § 2.05.

Vice-mayor: § 2.04.

CHAPTER 3

TOWN RECORDER¹

SECTION

1-301. To keep minutes, etc.

1-302. To perform general administrative duties, etc.

1-301. To keep minutes, etc. The town 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. (2005 Code, § 1-301)

1-302. To perform general administrative duties, etc. The town 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. (2005 Code, § 1-302)

¹Charter references
Town recorder: § 3.03.

CHAPTER 4

CODE OF ETHICS¹

SECTION

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

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

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

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

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

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

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

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

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

1-401. Applicability. This chapter is the code of ethics for personnel of the municipality. 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.

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

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

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

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

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

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

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure.

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

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

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.

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.

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.

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.

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.

1-410. Ethics complaints. (1) The town 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 town attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the town attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may

undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

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

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the 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 town 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.

1-411. Violations and penalty. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the 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.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3

MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1

TOWN JUDGE

SECTION

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

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

3-102. Jurisdiction. The town judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty under the general penalty provision of this code.

¹Charter references
Town attorney: § 3.04.
Town court: 3.305

CHAPTER 2

COURT ADMINISTRATION

SECTION

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

3-201. Maintenance of docket.¹ The court clerk or his designee shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant. (modified)

3-202. Imposition of penalties and costs.² All penalties and costs shall be imposed by the town judge and recorded by the court clerk on the town court docket in open court.

In all cases heard and determined by him, the town judge shall impose court costs in the amount of one hundred one dollars (\$101.00). One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks.

In addition, pursuant to authority granted in *Tennessee Code Annotated*, § 67-4-601, the court shall levy a local litigation tax in the amount of thirteen dollars and seventy-five cents (\$13.75) in all cases on which state litigation tax is levied. (as amended by Ord. #2023-5, Jan. 2023)

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

¹Charter reference
Docket: 3.05(e)

²Charter reference
Fines and costs: § 3.05(d)

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

CHAPTER 3

SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of summonses.

3-302. Issuance of subpoenas.

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

3-302. Issuance of subpoenas. The town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith.

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appeals.

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

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

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

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

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

(a) Files the following oath of poverty:

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

(b) Files an accompanying affidavit of indigency.

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

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

¹State law reference

Tennessee Code Annotated, § 16-18-307.

TITLE 4

MUNICIPAL PERSONNEL¹

CHAPTER

1. PERSONNEL REGULATIONS.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
3. INFECTIOUS DISEASE CONTROL POLICY.
4. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1

PERSONNEL REGULATIONS

SECTION

4-101. Personnel rules and regulations.

4-101. Personnel rules and regulations.² The personnel rules and regulations for the Town of Baileyton are adopted herein as if set out verbatim.

¹Charter reference
Personnel rules: § 3.08.

²The Personnel Rules and Regulations for the Town of Baileyton, as amended from time to time, are available in the office of the recorder.

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-201. Adopted by reference.

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

CHAPTER 3

INFECTIOUS DISEASE CONTROL POLICY

SECTION

- 4-301. Purpose.
- 4-302. Coverage.
- 4-303. Administration.
- 4-304. Definitions.
- 4-305. Policy statement.
- 4-306. General guidelines.
- 4-307. Hepatitis B vaccinations.
- 4-308. Reporting potential exposure.
- 4-309. Hepatitis B virus post-exposure management.
- 4-310. Human immunodeficiency virus post-exposure management.
- 4-311. Disability benefits.
- 4-312. Training regular employees.
- 4-313. Training high risk employees.
- 4-314. Training new employees.
- 4-315. Records and reports.
- 4-316. Legal rights of victims of communicable diseases.

4-301. Purpose. It is the responsibility of the Town of Baileyton to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the Town of Baileyton, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases, just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (2005 Code, § 4-501)

4-302. Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations, include but are not limited to:

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

- (4) Police and security personnel;
- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination. (2005 Code, § 4-502)

4-303. Administration. This infection control policy shall be administered by the mayor or his/her designated representative who shall have the following duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the town charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen. (2005 Code, § 4-503)

4-304. Definitions. (1) "Body fluids" means fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

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

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

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

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

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

(6) "Universal precautions" means a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be protected as though such body fluid were HBV or HIV infected. (2005 Code, § 4-504)

4-305. Policy statement. All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (2005 Code, § 4-505)

4-306. General guidelines. General guidelines which shall be used by everyone include:

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

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

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

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

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

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

- (a) While handling an individual where exposure is possible;
- (b) While cleaning or handling contaminated items or equipment; and
- (c) While cleaning up an area that has been contaminated with one (1) of the above.

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

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

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

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

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

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

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

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

All required tags shall meet the following criteria:

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

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

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

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

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

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (2005 Code, § 4-506)

4-307. Hepatitis B vaccinations. The Town of Baileyton shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the infectious disease control coordinator. (2005 Code, § 4-507)

4-308. Reporting potential exposure. Town employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc.):

(1) Notify the infectious disease control coordinator of the contact incident and details thereof;

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

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

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B Surface Antigen (HBsAg) and/or antibody to Human Immunodeficiency Virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (2005 Code, § 4-508)

4-309. Hepatitis B virus post-exposure management. For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of Hepatitis B Immune Globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from a HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to Hepatitis B Surface Antigen (anti-HBs), and given one (1) dose of vaccine and one (1) dose of HBIG if the antibody level in the worker's blood sample is inadequate (i.e., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (2005 Code, § 4-509)

4-310. Human immunodeficiency virus post-exposure management. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within twelve (12) weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

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

donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing twelve (12) weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the town to all workers who may be concerned they have been infected with HIV through an occupational exposure. (2005 Code, § 4-510)

4-311. Disability benefits. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of *Tennessee Code Annotated*, § 50-6-303. (2005 Code, § 4-511)

4-312. Training regular employees. On an annual basis, all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (2005 Code, § 4-512)

4-313. Training high risk employees. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of universal precautions, as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. (2005 Code, § 4-513)

4-314. Training new employees. During the new employee's orientation to his/her job, all new employees will be trained on the effects of infectious disease prior to putting them to work. (2005 Code, § 4-514)

4-315. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc.) shall be recorded.

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

(4) Employee interviews. Should the town be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (2005 Code, § 4-515)

4-316. Legal rights of victims of communicable diseases. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers, are duty bound to provide, the same level of service and enforcement as any other individual would receive.

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

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

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

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

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

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

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

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

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

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

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil and/or criminal prosecution. (2005 Code, § 4-516)

CHAPTER 4

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-401. Purpose.
- 4-402. Enforcement.
- 4-403. Travel policy.
- 4-404. Travel reimbursement rate schedules.
- 4-405. Administrative procedures.

4-401. Purpose. The purpose of this chapter and referenced regulations is to bring the town into compliance with *Tennessee Code Annotated*, § 6-54-901--907. This law requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

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

4-402. Enforcement. The Chief Administrative Officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations.

4-403. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on town business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

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

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

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

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

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

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

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

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

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

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive will not be allowed.

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

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

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

4-404. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the State of Tennessee) travel regulation rates. The town's travel reimbursement rates will automatically change when the state rates are adjusted.

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

4-405. Administrative procedures. The town adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State

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

¹State law reference

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

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. PRIVILEGE TAXES.

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depository for town funds.

5-101. Official depository for town funds. The board shall designate an official depository or depositories for deposit and safekeeping of funds of the town.² (2005 Code, § 5-101)

¹Charter reference
Property tax: § 4.12.

²Charter reference
Official depository: § 4.15.

CHAPTER 2

PRIVILEGE TAXES

SECTION

5-201. Tax levied.

5-202. License required.

5-201. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's Business Tax Act (*Tennessee Code Annotated*, §§ 67-4-701, *et seq.*), are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the town at the rates and in the manner prescribed by the act. (2005 Code, § 5-201)

5-202. License required. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (2005 Code, § 5-202)

TITLE 6**LAW ENFORCEMENT****CHAPTER****1. POLICE AND ARREST.****CHAPTER 1****POLICE AND ARREST****SECTION**

- 6-101. Police officers subject to chief's orders.
- 6-102. Police officers to preserve law and order, etc.
- 6-103. When police officers to make arrests.
- 6-104. Disposition of persons arrested.
- 6-105. Summonses in lieu of arrest.
- 6-106. Police department records.

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

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

6-103. When police officers to make arrests.¹ Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer in the following cases:

- (1) Whenever he is in possession of a warrant for the arrest of the person;
- (2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person; or
- (3) Whenever a felony has in fact been committed and the officer has probable cause to believe the person has committed it.

¹Municipal code reference

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

(4) Whenever a person refuses to sign a citation for a municipal ordinance violation or refuses to provide identification.¹ (2005 Code, § 6-103)

6-104. Disposition of persons arrested. (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other town ordinances shall be brought before the town court. However, if the town court is not in session, the arrested person shall be allowed to post bond with the town court clerk, or, if the town court clerk is not available, with the ranking police officer on duty. If the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender. (2005 Code, § 6-104)

6-105. Summonses in lieu of arrest. Pursuant to *Tennessee Code Annotated*, §§ 7-63-201, *et seq.*, which authorizes the board of mayor and aldermen to designate certain town enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the police department to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summons notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him. The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may:

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

The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided in § 6-104 above. (modified)

¹State law reference

Tennessee Code Annotated, § 7-63-101.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued. (2005 Code, § 6-106)

6-106. Police department records. The police department shall keep a comprehensive and detailed daily record, in permanent form, showing at a minimum:

- (1) All known or reported offenses and/or crimes committed within the corporate limits;
- (2) All arrests made by police officers; and
- (3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (2005 Code, § 6-107)

TITLE 7**FIRE PROTECTION AND FIREWORKS****CHAPTER****1. FIREWORKS.****CHAPTER 1****FIREWORKS****SECTION**

7-101. Unlawful acts in the sale of fireworks.

7-102. Use restricted.

7-103. Violations and penalty.

7-101. Unlawful acts in the sale of fireworks. It shall be unlawful to sell, offer for sale, give away for the purpose of evading the term "sell," or store in commercial quantities fireworks within the corporate limits of the Town of Baileyton. (2005 Code, § 7-101)

7-102. Use restricted. The following restrictions shall apply for the use of fireworks within the corporate limits:

(1) The use of fireworks shall be restricted to D.O.T. Class C common fireworks as defined by *Tennessee Code Annotated*, title 68, chapter 104.

(2) It is permissible for persons to fire, set off, shoot, discharge or otherwise explode fireworks; provided that the firing or exploding is done entirely within the property lines of the person doing the firing; and provided that such firing is not objectionable to other residents of the neighborhood. Streets, roadways, and alleys maintained by the State of Tennessee or the Town of Baileyton, and sidewalks adjacent to the property from which fireworks are being exploded or fired, are to be construed as outside the property lines of the person exploding fireworks. It is the intent of this chapter to prohibit the use of fireworks on all public streets, roadways, alleys and sidewalks within the Town of Baileyton.

(3) It shall be unlawful to use or explode fireworks within the corporate limits of the Town of Baileyton later than 10:00 P.M., with the exception of July 4th and New Year's Eve, on which the time shall be no later than 1:00 A.M.

(4) It shall be unlawful to explode or ignite fireworks on or onto another person's property unless permission is obtained from the owner or occupant of said property.

(5) It shall be unlawful to ignite or discharge fireworks from or within a motor vehicle. It shall be unlawful for any person to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of persons. (2005 Code, § 7-102)

7-103. Violations and penalty. The violation of any provision of this chapter shall be punishable under the general penalty clause of this municipal code. (2005 Code,

§ 7-103)

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

1. INTOXICATING LIQUORS.
2. BEER.

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

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws¹ and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within this town. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. "Beer" shall be defined pursuant to *Tennessee Code Annotated*, § 57-5-101.

¹State law reference

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

CHAPTER 2

BEER¹

SECTION

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

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. (2005 Code, § 8-201)

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. (2005 Code, § 8-202)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc.,

¹Municipal code references

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

Tax provisions: title 5.

before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (2005 Code, § 8-203)

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. (2005 Code, § 8-204)

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 municipality in accordance with the provisions of this chapter. (2005 Code, § 8-205)

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

8-207. Permit required for engaging in beer business.² It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Baileyton. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (2005 Code, § 8-207)

8-208. Privilege tax.³ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the Town

¹State law reference
Tennessee Code Annotated, § 57-5-106.

²State law reference
Tennessee Code Annotated, § 57-5-103.

³State law reference
Tennessee Code Annotated, § 57-5-104(b).

of Baileyton, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (2005 Code, § 8-208)

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. A single permit may be issued for on-premises and off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit. (Ord. #20161214, Dec. 2016)

8-210. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools or churches, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school or church. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school or church. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school or church if a valid permit had been issued to any business on that same location, unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (2005 Code, § 8-211, as amended by Ord. #2023-10, Nov. 2023)

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 beer or other alcoholic beverage, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or any crime involving moral turpitude within the past ten (10) years. (2005 Code, § 8-212)

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

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

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer;

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

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

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

(6) Allow drunk persons to loiter about his premises;

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

(8) Allow pool or billiard playing in the same room where beer is sold and/or consumed; and

(9) Fail to provide and maintain separate sanitary toilet facilities for men and women. (2005 Code, § 8-213)

8-213. Hours for beer sales. Beer may be sold twenty-four (24) hours per day seven (7) days per week. (2005 Code, § 8-214)

8-214. Revocation of beer permits.¹ The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board. (2005 Code, § 8-215)

8-215. Civil penalty in lieu of suspension.² The beer board may, at the time it imposes a revocation or suspension, and at its discretion, offer a

¹State law reference

Tennessee Code Annotated, § 57-5-108(a)(1).

²State law reference

Tennessee Code Annotated, § 57-5-108(a)(2).

permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the town may impose. (2005 Code, § 8-216, modified)

8-216. Violations and penalty. Except as provided in § 8-214, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2005 Code, § 8-217)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. CHARITABLE ROADBLOCKS.
3. YARD SALES.
4. CABLE TELEVISION.

PEDDLERS, SOLICITORS, ETC.¹

SECTION

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

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

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

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

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization. No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

(a) Has a current exemption certificate from the Internal Revenue Service issued under section 501(c)(3) of the Internal Revenue Service Code of 1954, being 26 U.S.C. § 501(c)(3), as amended.

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

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

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

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

¹State law references

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

The definition of "transient vendors" is taken from *Tennessee Code Annotated*, § 62-30-101(3). Note also that *Tennessee Code Annotated*, § 67-4-710(a)(2) prescribes that transient vendors shall pay a tax of \$50.00 in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in *Tennessee Code Annotated*, § 67-4-709.

as his or her permanent residence for more than six (6) consecutive months.
(modified)

9-102. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business.

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

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

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

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

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

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

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

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

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

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

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

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

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

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

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

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

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

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

be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days.

9-110. Violations and penalty. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

CHAPTER 2

CHARITABLE ROADBLOCKS

SECTION

- 9-201. Definitions.
- 9-202. Eligibility.
- 9-203. Exemptions.
- 9-204. Restrictions.
- 9-205. Permits.
- 9-206. Records.
- 9-207. Identification.
- 9-208. Violations and penalty.

9-201. Definitions. (1) "Contributions" means the promise or grant of any money or property of any kind or value, including the payment or promise to pay in consideration of a sale, performance or show of any kind which is advertised or offered in conjunction with the name of any charity.

(2) "Person" means any person or group acting individually or in concert.

(3) "Professional solicitor" means any person who, for a financial or other consideration, solicits contributions for, or on behalf of, a charitable organization.

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

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

(6) "Solicitation roadblock" means the solicitation by any person of money on or in the right-of-way of any street, road, highway, or any other public way and place generally open to, and used by, the public for travel in or upon motor vehicles.

(7) "Street," "road," "highway," and "public way and place" means and includes the paved or unpaved surface of any such street, road, highway or public place, the entire width of the public right-of-way extending laterally therefrom, dividers, medians, and abutting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic. (2005 Code, § 9-201)

9-202. Eligibility. Charitable organizations desiring to conduct a solicitation roadblock shall be restricted to:

- (1) Charitable organizations that have their principal headquarters and meeting place within the municipal boundaries of the Town of Baileyton; and
- (2) Members of an organization which has received a determination of exemption from the internal revenue service under 26 U.S.C. § 501(c)(3) or (4), subject to the provisions of this section. (2005 Code, § 9-202)

9-203. Exemptions. The eligibility requirements stated in § 9-202 shall not apply to bona fide religious institutions, educational institutions, volunteer fire departments, rescue squads, non-profit athletic organizations, or local civil defense organizations. (2005 Code, § 9-203)

9-204. Restrictions. (1) Roadblocks shall be limited to Saturdays and Sundays from 7:00 A.M. to 12:00 P.M.

(2) No professional solicitor shall solicit in the name of a charitable organization.

(3) All persons participating in a roadblock shall be at least eighteen (18) years of age or older.

(4) Roadblocks shall be limited to two (2) participants at each corner, i.e., a maximum of eight (8) active participants at a four-way intersection.

(5) All participants will be equipped with high visibility clothing.

(6) Organizations are required to provide a minimum of four (4) high visibility safety cones.

(7) The members of the organization shall take reasonable and prudent precautions to prevent both the disruption of traffic flow and the injuries to persons or property.

(8) Persons participating in the roadblock shall remove all signs or other displays, and shall clean up all litter occurring as a result of the solicitation upon completion of the roadblock.

(9) The person in charge of roadblock, or his designee, shall be present throughout the time of the roadblock.

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

(11) No person, group or organization shall be on a street without a permit approved by the board of mayor and aldermen to:

- (a) Solicit gifts or contributions or cause the solicitation of gifts or contributions;
- (b) Sell, offer to sell or cause the selling or offering to sell any goods, whether the sale of such goods occurs on a street or off a street;
- (c) Promote or advertise any activity; or
- (d) Place a sign on a street to advertise or promote any activity.

(12) No person shall disobey an order to move or remove a sign issued by a person who is a law enforcement officer, firefighter, public works employee, or person with authority to control traffic on a street or to maintain public safety on a street. (2005 Code, § 9-204)

9-205. Permits. (1) Any person, group or organization wishing to solicit contributions under the terms of this chapter shall make a written request to the town recorder for a permit authorizing such solicitation. The request shall include the name of the person, group or organization, the proposed date of the roadblock and the purpose for the solicitation, including the proposed use of the funds to be collected. The recorder may also require such additional information as is deemed necessary to make a decision concerning the permit request.

(2) The person in charge of roadblock shall apply for a permit from at least ten (10) business days before the establishment of the roadblock.

(3) The town recorder shall approve or deny the application within five (5) days of request.

(4) Any applicant denied approval of a permit may request, in writing, to appear before the board of mayor and aldermen for reconsideration.

(5) Each permit will be assigned a number and shall be issued by the town recorder's office.

(6) A copy of the permit must be available at all solicitation locations.

(7) Only one (1) permit will be issued per weekend.

(8) No person, group, or organization shall be granted more than two (2) permits per year, with the exception of the volunteer fire department, who shall be allowed up to eight (8) permits per year, and other charitable organizations who shall be allowed up to four (4) permits per year. (2005 Code, § 9-205, as amended by Ord. #2022-2, Feb. 2022)

9-206. Records. True and accurate fiscal records, including but not limited to, all income and expenses, shall be made available, upon request, to the Town of Baileyton. (2005 Code, § 9-206)

9-207. Identification. It is the duty of every charitable organization to furnish identification to persons who solicit contributions from the public on behalf of the charitable organization. The solicitor shall be required to have and produce or display, on demand, identification indicating that the solicitor has been duly authorized by the organization for which the solicitor is soliciting. Such identification shall include, but not be limited to, the name of the holder of the identification and the name and the permit number of the charitable organization. (2005 Code, § 9-207)

9-208. Violations and penalty. Any person violating this chapter shall be subject to a penalty under the general penalty provision of this municipal

code. Each day a violation continues shall constitute a separate and distinct offense. (2005 Code, § 9-208)

CHAPTER 3

YARD SALES

SECTION

- 9-301. Definitions.
- 9-302. Property permitted to be sold.
- 9-303. Permit required.
- 9-304. Permit procedure.
- 9-305. Permit conditions.
- 9-306. Hours of operation.
- 9-307. Exceptions.
- 9-308. Display of sale property.
- 9-309. Display of permit.
- 9-310. Advertising.
- 9-311. Persons exempted from chapter.
- 9-312. Violations and penalty.

9-301. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Personal property" means property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

(2) "Yard sales" means and includes all general sales, open to the public, conducted from or on any premises in any residential or non-residential zone, as defined by the zoning ordinance¹, for the purpose of disposing of personal property including, but not limited to, all sales entitled garage, lawn, yard, attic, porch, room, backyard, patio, flea market, or rummage sale. This definition does not include the operation of such businesses carried on in a non-residential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold. (2005 Code, § 9-301)

9-302. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (2005 Code, § 9-302)

¹Municipal code reference

Zoning ordinance: title 14, chapter 2.

9-303. Permit required. No yard sale shall be conducted unless and until the individuals desiring to conduct such sale obtains a permit therefore from the town recorder. Members of more than one (1) residence may join in obtaining a permit for a yard sale to be conducted at the residence of one (1) of them. Permits may be obtained for any non-residential location. (2005 Code, § 9-303)

9-304. Permit procedure. (1) Application. The applicant or applicants for a yard sale permit shall file a written application with the town recorder at least three (3) days in advance of the proposed sale setting forth the following information:

- (a) Full name and address of applicant or applicants;
- (b) The location at which the proposed yard sale is to be held;
- (c) The date or dates upon which the sale shall be held;
- (d) The date or dates of any other yard sales by the same applicant or applicants within the current calendar year;
- (e) A statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired nor consigned for the purpose of resale; and
- (f) A statement that the applicant will fully comply with this and all other applicable ordinances and laws.

(2) Permit fee. An administrative processing fee of five dollars (\$5.00) for the issuance of such permit shall accompany the application.

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the town recorder shall issue a permit. (2005 Code, § 9-304)

9-305. Permit conditions. The permit shall set forth and restrict the time and location of such yard sale. No more than three (3) such permits may be issued to one (1) residential location, residence and/or family household during any calendar year. If members of more than one (1) residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than six (6) permits may be issued for any non-residential location during any calendar year. (2005 Code, § 9-305)

9-306. Hours of operation. Yard sales shall be limited in time to no more than 9:00 A.M. to 6:00 P.M. on three (3) consecutive days or on two (2) consecutive weekends (Saturday and Sunday). (2005 Code, § 9-306)

9-307. Exceptions. (1) If sale not held because of inclement weather. If a yard sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the town recorder shall issue another permit to the applicant for a yard sale to be

conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required.

(2) Fourth sale permitted. A fourth yard sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the town recorder. (2005 Code, § 9-307)

9-308. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a yard sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. (2005 Code, § 9-308)

9-309. Display of permit. Any permit in possession of the holder or holders of a yard sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any town official. (2005 Code, § 9-309)

9-310. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending yard sale:

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

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

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

(3) Removal of signs. Signs must be removed each day at the close of the yard sale activities. (2005 Code, § 9-310)

9-311. Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

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

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

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the Town of Baileyton, or under the protection of the non-conforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in

which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (2005 Code, § 9-311)

9-312. Violations and penalty. Any person found guilty of violating the terms of this chapter shall be subject to a penalty under the general penalty provision of this code. (2005 Code, § 9-312)

CHAPTER 4

CABLE TELEVISION

SECTION

9-401. To be furnished under franchise.

9-401. To be furnished under franchise. Cable television shall be furnished to the Town of Baileyton and its inhabitants under franchise granted by the Board of Mayor and Aldermen of the Town of Baileyton, Tennessee. The rights, powers, duties and obligations of the Town of Baileyton and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon, the parties concerned.¹ (2005 Code, § 9-401)

¹Complete details of cable television franchise agreements are available in the office of the town recorder.

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

1. IN GENERAL.
2. DOGS AND CATS.

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

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

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

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

10-102. Keeping near a residence or business restricted. Swine are prohibited within the corporate limits. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street, as measured in a straight line. (2005 Code, § 10-102)

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

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

enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (2005 Code, § 10-103)

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

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

It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (2005 Code, § 10-104)

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

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

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance. (2005 Code, § 10-106)

10-107. Violations and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense. (2005 Code, § 10-107)

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Limiting number of dogs kept by owner.
- 10-205. Vicious dogs.
- 10-206. Noisy dogs prohibited.
- 10-207. Confinement of dogs suspected of being rabid.
- 10-208. Seizure and disposition of dogs.
- 10-209. Destruction of vicious or infected dogs running at large.
- 10-210. Violations and penalty.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the Tennessee Anti-Rabies Law (*Tennessee Code Annotated*, §§ 68-8-101 to 68-8-113) or other applicable law. (2005 Code, § 10-201, modified)

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. (2005 Code, § 10-202)

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.

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section, even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (2005 Code, § 10-203)

10-204. Limiting number of dogs kept by owner. No person, except an animal shelter, shall keep, lodge or maintain in excess of five (5) dogs over the age of six (6) months within the town limits of the Town of Baileyton. Such standards may be enforced by way of inspection conducted by any animal control or police officer. (Ord. #20170712, July 2017)

¹State law reference

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

10-205. Vicious dogs. (1) Definition of terms. (a) "Owner" means any person, firm, corporation, organization or department possessing or harboring, or having the care or custody of a dog, or the parents or guardian of a child claiming ownership.

(b) "Vicious dog" means:

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

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

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

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

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

(c) A vicious dog is unconfined if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot (1'). All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

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

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

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

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

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

(7) Penalties. Whoever violates any provision of this section shall be guilty of a gross misdemeanor and may be punished by a fine of not less than ten dollars (\$10.00) and not more than fifty dollars (\$50.00). The conviction of any owner of three (3) or more offenses under this chapter for any dog during one (1) calendar year shall require a confiscation and forfeiture of that animal based on the danger and incorrigibility of owner and animal. Failure to abide by a lawful order of forfeiture is punishable by contempt. (2005 Code, § 10-204)

10-206. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (2005 Code, § 10-205)

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 chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (2005 Code, § 10-206)

10-208. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the dog is wearing a tag, the owner shall be notified in person, by telephone, or by a postcard addressed to his last known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag, it shall be sold or humanely destroyed, unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and has a tag evidencing such vaccination placed on its collar.

Any new owner adopting a dog that has not been spayed or neutered must pay a twenty-five dollar (\$25.00) deposit before a dog may be released, as required by the Tennessee Spay/Neuter Law.¹ (2005 Code, § 10-207)

10-209. Destruction of vicious or infected dogs running at large. When, because of its viciousness or apparent infection with rabies, a dog found running at large that cannot be safely impounded, it may be summarily destroyed by any police officer or other properly designated officer. (2005 Code, § 10-208)

10-210. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2005 Code, § 10-209)

¹State law reference

Tennessee Code Annotated, §§ 44-17-501, *et seq.*, the Tennessee Spay/Neuter Law, prohibits persons from adopting a dog or cat from an agency (pound, animal shelter, etc.) operated by a municipality unless the dog or cat was already spayed or neutered, was spayed or neutered while in the custody of the agency, or the new owner signs a written agreement to have the animal spayed or neutered within thirty (30) days of the adoption if the animal is sexually mature, or within thirty (30) days after the animal reaches six (6) months of age if it is not sexually mature.

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

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

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

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

CHAPTER 1

ALCOHOL²

SECTION

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

11-101. Drinking alcoholic beverages in public, etc. It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place. (2005 Code, § 11-101)

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

11-103. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. (2005 Code, § 11-102)

¹Municipal code references

Animals and fowls: title 10.

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

Traffic offenses: title 15.

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

CHAPTER 2**FORTUNE TELLING, ETC.****SECTION**

11-201. Transient fortune telling, etc.

11-201. Transient fortune telling, etc. It shall be unlawful for any person to conduct the transient business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (2005 Code, § 11-201, modified)

CHAPTER 3**OFFENSES AGAINST THE PEACE AND QUIET****SECTION**

- 11-301. Disturbing the peace.
- 11-302. Anti-noise regulations.
- 11-303. Violations and penalty.

11-301. 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. (2005 Code, § 11-301)

11-302. 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. If the creation by means of any such signal device is unreasonably loud or harsh sound; or the sounding of such device is 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 person in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

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

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper town 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) Town vehicles. Any vehicle of the town while engaged upon necessary public business;

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the town, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day; or

(c) Non-commercial and non-profit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are non-commercial in character and in the course of advertising functions sponsored by non-profit organizations. However, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. Hours for the use of an amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (2005 Code, § 11-302, (modified))

11-303. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. (2005 Code, § 11-303)

CHAPTER 4

FIREARMS, WEAPONS AND MISSILES

SECTION

11-401. Air rifles, etc.

11-402. Throwing missiles.

11-403. Discharge of firearms.

11-404. Violations and penalty.

11-401. 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 bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (2005 Code, § 11-401)

11-402. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any building or other public or private property or upon or at any person. (2005 Code, § 11-402, modified)

11-403. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (2005 Code, § 11-403)

11-404. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. (2005 Code, § 11-404)

CHAPTER 5**TRESPASSING AND INTERFERENCE WITH TRAFFIC****SECTION**

11-501. Trespassing.

11-502. Interference with traffic.

11-503. Violations and penalty.

11-501. Trespassing. (1) On premises open to the public.

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

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

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

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

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

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

11-502. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon.

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

11-503. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 6

LITTERING

SECTION

- 11-601. Definitions.
- 11-602. Littering offenses.
- 11-603. Scope of regulation.
- 11-604. Violations and penalty.

11-601. Definition. As used in this chapter, unless the context otherwise requires:

- (1) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;
- (2) "Litter" includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in *Tennessee Code Annotated*, § 39-17-1503(11) and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked.
- (3) "Refuse" includes all putrescible and nonputrescible solid waste; and
- (4) "Rubbish" includes nonputrescible solid waste consisting of both combustible and non-combustible waste.

11-602. Littering offenses. (1) A person commits the civil offense of littering who:

- (a) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it;
 - (b) Negligently places or throws glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50') of a public highway; or
 - (c) Negligently discharges sewage, minerals, oil products or litter into any public waters or lakes within this state.
- (2) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the town judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.
- (3) Whenever litter discovered on public or private property is found to contain any article or articles, including, but not limited to, letters, bills, publications, or other writings that display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, the town judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that such person has committed littering.

11-603. Scope of regulation. The regulation of litter in this chapter is limited to amounts of litter less than or equal to five pounds (5 lbs.) in weight or seven and one-half (7.5) cubic feet in volume.¹

11-604. Violations and penalty. Littering is a civil offense punishable by a penalty under the general penalty provision of this code.

¹State law reference
Tennessee Code Annotated, § 39-14-503.

CHAPTER 7**MISCELLANEOUS****SECTION**

11-701. Caves, wells, cisterns, etc.

11-702. Posting notices, etc.

11-701. 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. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (2005 Code, § 11-601)

11-702. Posting notices, etc. No person shall paint, make, or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property, unless legally authorized to do so. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. Each posting of such unauthorized notice shall constitute a separate offense. (2005 Code, § 11-602)

TITLE 12

BUILDING, UTILITY, ETC. CODES

[RESERVED FOR FUTURE USE]

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (2005 Code, § 13-101)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (2005 Code, § 13-102)

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the town recorder to cut such vegetation when it has reached a height of over one foot (1'). (2005 Code, § 13-103)

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Wastewater treatment: title 18, chapter 2.

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Limitation on application. The provisions of this section shall not apply to any parcel of property upon which an owner-occupied residence is located.

(3) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the Baileyton Municipal Code, which has been enacted under the authority of *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the town; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be

assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Greene County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the town recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (2005 Code, § 13-104)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the town recorder and dispose of such animal in such manner as the town recorder shall direct. (2005 Code, § 13-105)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the

premises to the menace of the public health or the annoyance of people residing within the vicinity. (2005 Code, § 13-106)

13-107. Violations and penalty. Violations of this chapter shall be subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (2005 Code, § 13-107)

CHAPTER 2

SLUM CLEARANCE¹

SECTION

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

13-201. Findings of board. Pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*, the board of mayor and aldermen finds that there exists in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town. (2005 Code, § 13-201)

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

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

(3) "Municipality" means the Town of Baileyton, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(4) "Owner" means the holder of title in fee simple and every mortgagee of record.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

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

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

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

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

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (2005 Code, § 13-202)

13-203. Public officer designated; powers. There is hereby designated and appointed a public officer, to be the police department of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the police department. (2005 Code, § 13-203, modified)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in court of law or equity shall not be controlling in hearings before the public officer. (2005 Code, § 13-204)

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation

or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

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

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (2005 Code, § 13-205)

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (2005 Code, § 13-206)

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (2005 Code, § 13-207)

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall, upon the filing of the notice with the Office of the Register of Deeds of Greene County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in

any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Greene County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Baileyton to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (2005 Code, § 13-208)

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of Baileyton. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (2005 Code, § 13-209)

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Greene County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (2005 Code, § 13-210)

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

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

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of non-compliance by such person with any order of the public officer. (2005 Code, § 13-211)

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

(1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination; provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (2005 Code, § 13-212)

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (2005 Code, § 13-213)

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

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (2005 Code, § 13-214)

CHAPTER 3

JUNKYARDS¹

SECTION

- 13-301. Definitions.
- 13-302. Junkyard screening.
- 13-303. Screening methods.
- 13-304. Requirements for effective screening.
- 13-305. Maintenance of screens.
- 13-306. Utilization of highway right-of-way.
- 13-307. Non-conforming junkyards.
- 13-308. Permits and fees.
- 13-309. Violations and penalty.

13-301. Definitions. (1) "Junk" means 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 non-ferrous material.

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

(4) "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.

(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. (2005 Code, § 13-301)

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (2005 Code, § 13-302)

¹Municipal code reference

Refuse and trash disposal: title 17.

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

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

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

(3) Architectural barriers. The utilization of:

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

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

(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. (2005 Code, § 13-303)

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

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

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

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

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen, nor shall junk be placed outside of the screened area. (2005 Code, § 13-304)

13-305. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to ensure 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 may replace said screening and require payment upon demand. (2005 Code, § 13-305)

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (2005 Code, § 13-306)

13-307. Non-conforming junkyards. Those junkyards within the town and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as non-conforming. Such junkyards shall 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; and

- (5) The junkyard may not be extended or enlarged. (2005 Code, § 13-307)

13-308. Permits and fees. It shall be unlawful for any junkyard located within the town to operate without a junkyard control permit issued by the town.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The town's fiscal year begins on July 1 and ends on June 30 the year next following.

(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.

(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. (2005 Code, § 13-308)

13-309. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (2005 Code, § 13-309)

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

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. STORMWATER, EROSION AND SEDIMENTATION CONTROL.
4. FLOOD DAMAGE PREVENTION ORDINANCE.

CHAPTER 1**MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.

14-101. Creation and membership. Pursuant to the provisions of *Tennessee Code Annotated*, § 13-4-101, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (2005 Code, § 14-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of *Tennessee Code Annotated*, title 13. (2005 Code, § 14-102)

14-103. Additional powers.¹ Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (2005 Code, § 14-103)

¹State law reference

To make this section effective, the municipality should request the state department of economic and community development, under authority granted by *Tennessee Code Annotated*, § 13-3-102 to designate the municipal planning commission as a regional planning commission.

CHAPTER 2**ZONING ORDINANCE****SECTION**

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

14-202. Violations and penalty.

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Baileyton shall be governed by Ordinance Number _____, titled "Zoning Ordinance, Baileyton, Tennessee," and any amendments thereto.¹ (2005 Code, § 14-201)

14-202. Violations and penalty. Violations of the zoning ordinance shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (2005 Code, § 14-202)

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

CHAPTER 3**STORMWATER, EROSION AND SEDIMENTATION CONTROL****SECTION**

- 14-301. Title.
- 14-302. Purpose.
- 14-303. Definitions.
- 14-304. Regulated land disturbing activities.
- 14-305. Permit required for any regulated land disturbing activity.
- 14-306. Stormwater pollution prevention plan required.
- 14-307. Plan requirements.
- 14-308. Plan must contain measures to meet approved standards.
- 14-309. Plan development at owner's/developer's expense.
- 14-310. Plan submitted to building inspector.
- 14-311. Final plan reviewed within sixty (60) days.
- 14-312. Grading permit and bond.
- 14-313. Building inspector and/or town designee may require additional protective measures.
- 14-314. Retention/detention facilities and drainage structures maintained.
- 14-315. Improperly maintained retention/detention facilities and drainage structures a violation.
- 14-316. Town may take ownership of retention facilities and drainage structures.
- 14-317. Technical assistance.
- 14-318. Building inspector and/or designee responsible for providing safeguards in projects less than five (5) acres.
- 14-319. Grading permit also required for any project on less than one (1) acre involving grading, filling, or excavating.
- 14-320. Existing developed properties with drainage, erosion and sediment concerns.
- 14-321. Improvements required in existing developments normally at owner's expense.
- 14-322. Town may take responsibility for existing retention facilities and drainage structures.
- 14-323. Improvements required with existing developments subject to appeal.
- 14-324. Monitoring, reports, and inspections.
- 14-325. Certificate of occupancy not issued until compliance with plan verified.
- 14-326. Plan construction acceptance and bond release.
- 14-327. Appeal of administrative action.
- 14-328. Town clean-up resulting from violations at developer's/owner's expense.
- 14-329. Violations and penalty.

14-301. Title. This chapter shall be known as the "Stormwater, Erosion and Sedimentation Control Ordinance of the Town of Baileyton, Tennessee." (2005 Code, § 14-301)

14-302. Purpose. The purpose of this chapter is to conserve the land, water and other natural resources of the Town of Baileyton and Greene County; and promote the public health and welfare of the people by establishing requirements for the control of stormwater, erosion and sedimentation and by establishing procedures whereby these requirements shall be administered and enforced; and to diminish threats to public safety from degrading water quality caused by the run-off of excessive stormwater and associated pollutants, to reduce flooding and to reduce the economic loss to individuals and the community at large. (2005 Code, § 14-302)

14-303. Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Denuded area." Areas disturbed by grading, filling, or other such activity in which all vegetation has been removed and soil is exposed directly to the elements allowing for the possibility of erosion, stormwater and sediment run-off.

(2) "Developer." Any person, owner, individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

(3) "Development." Any activity on one (1) acre or more or three (3) lots or more that involves making changes to the land contour by grading, filling, excavating, removal, or destruction of topsoil, trees, or vegetative covering.

(4) "Drainage." A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied to surface water.

(5) "Drainageways and local waters." Any and all streams, creeks, branches, ponds, reservoirs, springs, wetlands, sinkholes, wells, drainage ways and wet weather ditches, or other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the Town of Baileyton or the area under the regulatory responsibility of the Baileyton Planning Commission.

(6) "Erosion." The general process whereby soils are moved by flowing surface or subsurface water.

(7) "Grading permit." The permit that must be issued by the building inspector, or in his/her absence, the town's designee, before any land disturbing activity is undertaken by a developer, or when grading, filling, or excavating is proposed on a project.

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

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

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

(c) Preparation for single-family residences separately built, unless in conjunction with multiple (three (3) or more) adjacent construction sites in subdivision developments; or

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

(9) "Stormwater pollution prevention plan." For the purpose of this chapter, a Stormwater Pollution Prevention Plan (SWPPP) refers to a formal written document addressing grading, vegetation, drainage, and stormwater flows, erosion and sedimentation controls, as specified in §§ 14-305 through 14-308, that is reviewed by the building inspector/designee, reviewed by the Baileyton Planning Commission, and if approved by the planning commission, is used as the basis for the building inspector to issue a grading permit that allows land disturbing activity to proceed. (2005 Code, § 14-303)

14-304. Regulated land disturbing activities. (1) Except as provided in subsections (2) and (3), it shall be unlawful for any person to engage in any land disturbing activity on any commercial development, or any development, construction, or renovation activity involving at least five (5) acres without submitting and obtaining approval of a stormwater pollution prevention plan as detailed in §§ 14-306 through 14-309 of this chapter, and being issued a grading permit by the building inspector/designee.

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

(3) Any state or federal agency not under the regulatory authority of the Town of Baileyton for stormwater management, erosion and sedimentation control. (2005 Code, § 14-304)

14-305. Permit required for any regulated land disturbing activity. Any land disturbing activity, as defined, shall require a grading permit, in addition to any building permit that must be issued by the building inspector prior to the commencement of any work. Grading permits for land disturbing activities will be issued by the building inspector only upon the

developer meeting requirements outlined in §§ 14-304 through 14-312 of this chapter. (2005 Code, § 14-305)

14-306. Stormwater pollution prevention plan required. A Stormwater Pollution Prevention Plan (SWPPP) shall be required for all developments, subdivisions, or construction activities involving five (5) or more acres. A SWPPP shall be required for all commercial construction or renovation, or any multi-family residential facility involving three (3) or more units. If necessary to protect the health and safety of the people, the building inspector and/or planning commission may, at its discretion, require a SWPPP for any development or renovation under five (5) acres, or subdivision with less than three (3) adjacent lots, or multi-family residential development under three (3) units. (2005 Code, § 14-306)

14-307. Plan requirements. The SWPPP shall be prepared and designed and certified by an engineer and/or land surveyor licensed in the State of Tennessee. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage. The plan shall include the following:

- (1) Project description. Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required;
- (2) Contour intervals of five (5) or less showing present conditions and proposed contours resulting from land disturbing activity;
- (3) All existing drainage ways, including intermittent and wet weather. Include any designated floodways or floodplains;
- (4) Existing land cover;
- (5) Approximate limits of proposed clearing, grading and filling;
- (6) Amount of approximate flows of existing stormwater leaving any portion of the site and where stormwater leaves the site. The appropriate calculations for making this determination shall be shown in the drainage plan;
- (7) Description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics;
- (8) Location, size and layout of proposed stormwater and sedimentation control improvements;
- (9) Proposed drainage network;
- (10) Proposed drain tile or waterway sizes;
- (11) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The hydraulic calculations necessary to ensure adequately sized stormwater management structures must also be included;

(12) The projected sequence of work represented by the grading, draining and erosion and sedimentation control plans as related to other major items of construction;

(13) Specific remediation measures to prevent erosion and sedimentation run-off, and to meet approved standards as outlined in § 14-308 of this chapter. Plans shall include detailed drawings for all control measures used; stabilization measures, including vegetation and non-vegetative measures, both temporary and permanent, shall be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan;

(14) Specific details for the construction of the entrance to the site for controlling erosion and road access points and for eliminating or keeping mud, sediment, and debris on Baileyton streets and public ways at a level acceptable to the building inspector. Mud sediment, and debris brought onto streets and public ways must be removed by the end of the day by machine, broom or shovel to the satisfaction of the building inspector and/or Baileyton law enforcement officer. Failure to remove said sediment, mud or debris shall be deemed a violation of this chapter; and

(15) Proposed structures. Location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site. (2005 Code, § 14-307)

14-308. Plan must contain measures to meet approved standards.

The SWPPP shall contain measures that will ensure development, construction or site work will meet or exceed the following standards:

(1) The development fits within the topography and soil conditions in a manner that allows stormwater and erosion and sedimentation control measures to be implemented in a manner satisfactory to the Baileyton Planning Commission. Development shall be accomplished so as to minimize adverse effects upon the natural existing topography and soil conditions and to minimize the potential for erosion.

(2) Plans for development and construction shall minimize cut and fill operations. Construction and development plans calling for excessive cutting and filling may be refused a permit by the Baileyton Planning Commission if it is determined that the land use permitted by the applicable zoning district could be supported with less alteration of the natural terrain.

(3) During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills. Fills shall not encroach upon natural water courses, their floodplains; or constructed channels in a manner so as to adversely affect other properties.

(4) Pre-construction vegetation ground cover shall not be removed, destroyed, or disturbed more than twenty (20) days prior to grading or earth

moving. No work shall occur until perimeter sedimentation and erosion control devices are in place to the building inspector's satisfaction.

(5) Developers shall be responsible upon completion of land disturbing activities to leave slopes and developed or graded areas so that they will not erode. Such methods include, but are not limited to, re-vegetation, mulching, rip-rapping or gunniting, and retaining walls. Bank cuts and grades should not exceed a two to one (2:1) slope without use of a retaining wall and must be properly covered with mulch and vegetation. Regardless of the method used, the objective is to leave the site as erosion and maintenance-free as is practical.

(6) Provisions are to be implemented that accommodate any increase in stormwater run-off generated by the development in a manner in which the existing levels of run-off are not increased during and following development and construction. Hydraulic calculations necessary to make accurate determinations will be based at a minimum on a two (2) year storm event. The planning commission may require designs based on larger storm events on a case-by-case basis. A combination of storage and controlled release of stormwater run-off shall be required for all development and construction.

(7) Discharges from sedimentation basins or traps must be through piping, liners, rip-rap or properly grassed channels so that the discharge does not cause erosion.

(8) Sedimentation basins (debris basins, desalting basins, or silt traps) and other drainage and sedimentation control measures shall be installed in conjunction with initial work and must be in place and functional prior to the initial grading operations. These measures must be maintained throughout the development process. Sediment basins and/or silt traps may be temporary, but shall not be removed without the approval of building inspector/designee.

(9) Damage to vegetation on stream banks or waterways (those not regulated in other chapters of this code) shall be minimized within five feet (5') of each bank, except as necessary for the installation of utilities, development of roads, or construction of retention ponds and related drainage improvements.

(10) Land shall be developed to the extent possible in increments of workable size that can be completed in a single construction season. Erosion and sedimentation control measures shall be coordinated with the sequence of grading development and construction operations. Control measures, such as berms, interceptor ditches, terraces, and sediment and silt traps shall be put into effect prior to any other stage of development.

(11) The permanent vegetation shall be installed on the construction site as soon as utilities are in place and final grades are achieved. However, without prior approval of an alternate plan by the Baileyton Planning Commission, permanent or temporary soil stabilization must be applied to disturbed areas within seven (7) days from substantial completion of grading and where disturbed areas will remain unfinished for more than thirty (30) calendar days.

(12) Retention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof, these structures shall have planted trees and vegetation, such as shrubs and permanent ground cover on their borders. Plant varieties shall be those sustainable in a drainage way environment. Woody material, such as trees, shall be kept from encroaching on the dam. Utilities shall not be constructed through the stormwater control device and must be accessible without disturbing the device.

(13) In many situations, retention facilities and drainage structures need to be fenced in order to protect public safety. The Baileyton Planning Commission may require fencing for any basin or structure. When the planning commission requires fencing, the following specifications apply: ¹

- (a) A minimum height of six feet (6');
- (b) Line post must be one and seven-eighths inches (1-7/8") diameter, sixteen (16) gauge;
- (c) Fence must be chained link of a minimum of nine (9) gauge, or approved alternative; and
- (d) A lockable access gate of a minimum width of twelve feet (12') must be provided to allow access by equipment and machinery as needed for maintenance.

(14) SWPPPs must meet minimum requirements established in *Tennessee Code Annotated* as follows:

- (a) Name of applicant;
- (b) Business or residence address of applicant;
- (c) Name and address of owners of property involved in activity;
- (d) Address and legal description of property, and names of adjoining property owners;
- (e) Name(s) and address(es) of contractor(s), if different from applicant, and any subcontractor(s) who shall undertake the land disturbing activity and who shall implement the drainage and sedimentation control plan;
- (f) A brief description of the nature, extent, and purpose of the land disturbing activity; and
- (g) Proposed schedule for starting and completing project. (2005 Code, § 14-308)

14-309. Plan development at owner's/developer's expense. Unless specifically approved by the board of mayor and aldermen, all SWPPPs shall be developed and presented at the expense of the owner/developer. (2005 Code, § 14-309)

¹Alternate fencing plans may be considered when requested by the developer, residents, or if the planning commission feels some other form of fencing is more appropriate for the site.

14-310. Plan submitted to building inspector. Six (6) copies of the SWPPP shall be submitted directly to the building inspector at least fifteen (15) days prior to consideration. Any insufficiencies, violations noted or comments will be directed back to the applicant/developer. The plan will then be revised as required prior to being presented to the Baileyton Planning Commission. (2005 Code, § 14-310)

14-311. Final plan reviewed within sixty (60) days. The Baileyton Planning Commission shall review SWPPPs as quickly as possible while still allowing for a thorough evaluation of the problems and mitigation measures identified and addressed. However, under no circumstances shall the planning commission take more than sixty (60) days to approve or disapprove the final plan submittal. (2005 Code, § 14-311)

14-312. Grading permit and bond. Following approval of the SWPPP by the planning commission, a grading permit shall be obtained from the building inspector. No grading permit shall be issued until a contractor performance bond is posted in the amount determined to be reasonable by the planning commission. The bond may not be higher than an amount equal to the estimated cost of the improvements, and said bond shall only be released by the building inspector following completion of construction and acceptance of the grading, vegetation, drainage, and erosion and sedimentation control measures. The bond shall be made out to the Town of Baileyton and if issued in conjunction with a subdivision plan, shall include the cost of paving, landscaping, and utilities including street lights. If it appears that the SWPPP activities approved by the Baileyton Planning Commission will not be implemented within a twelve (12) month period, the Baileyton Planning Commission, at its discretion, after the notice of non-compliance has been properly issued as outlined in § 14-316 of this chapter and the developer has failed to comply, may cash said contractor's performance bond to complete all of the improvements approved or any portion of the SWPPP activities it deems necessary to protect the health and safety of residents and to protect the quality of local waters. Upon the posting of the bond, the developer must sign and have notarized and approved a certification granting permission for any SWPPP activities, and any landscaping, paving and utility improvements also approved, to be made on the property in case of default. (2005 Code, § 14-312)

4-313. Building inspector and/or town designee may require additional protective measures. The building inspector and/or the town's designee has the authority, at their discretion, to require ground cover or other remediation measures preventing stormwater, erosion and sediment run-off, if either determines after construction begins that the plan and/or implementation schedule approved by the planning commission does not adequately provide the protection intended in this chapter and in the approval issued by the

commission. Additional protective measures required by the building inspector and/or the town designee that fall under the authority of the planning commission are subject to appeal under the procedures outlined in § 14-328 of this chapter. (2005 Code, § 14-313)

14-314. Retention/detention facilities and drainage structures maintained. All on-site retention basins and drainage structures shall be properly maintained by the owner/developer during all phases of construction and development so that they do not become a nuisance. Nuisance conditions shall include improper storage resulting in uncontrolled run-off and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facilities operation. The building inspector has the responsibility to see that the retention basin is properly maintained and operational. The developer shall provide the necessary permanent easements to provide town personnel access to the retention facilities and drainage structures for periodic inspection. A right-of-way to conduct such inspections shall be expressly reserved in the permit. (2005 Code, § 14-314)

14-315. Improperly maintained retention/detention facilities and drainage structures a violation. The building inspector and/or town designee shall periodically monitor and inspect the care, maintenance and operation of retention facilities and drainage structures during and after construction and development. Facilities found to be a nuisance, as defined in the Baileyton Municipal Code, are in violation of this chapter and are subject to fines of fifty dollars (\$50.00) per day with each additional day considered a separate violation. (2005 Code, § 14-315)

14-316. Town may take ownership of retention facilities and drainage structures. The Baileyton Board of Mayor and Aldermen shall have the authority to accept or take ownership of retention facilities and drainage structures on behalf of the town; provided that the board and planning commission feel the public interest is best served by the town providing on-going responsibility for maintenance and upkeep. In such cases, approval of the transfer of ownership shall only occur after the planning commission and the BMA have received an inspection report from the building inspector that certifies said devices have been properly constructed and landscaped, are operating effectively, and appropriate safety and protective measures have been implemented or constructed. Transfer of ownership to the town shall occur at or near the completion of the subdivision or development, and the developer must provide fee simple title to the property on which the retention/detention basin or drainage structure is located and/or any necessary easements allowing the Town of Baileyton access to the facilities for routine maintenance and care. (2005 Code, § 14-316)

14-317. Technical assistance. Through a memorandum of understanding with the Town of Baileyton, the Greene County Soil Conservation District staff and the Greene County Extension agent are available for consultation and advice concerning stormwater management and erosion and sedimentation problems to all persons planning to develop land within the town, or under the subdivision jurisdiction of the Baileyton Planning Commission. Tennessee Local Planning Assistance Office (LPAO) and Tennessee Department of Environment and Conservation (TDEC) staff may also be consulted. The planning commission and building inspector will use these consultants as needed to review SWPPPs prior to approval and provide assistance to the building inspector with inspections. (2005 Code, § 14-317)

14-318. Building inspector and/or designee responsible for providing safeguards in projects less than five (5) acres. Projects undertaken within the corporate limits of Baileyton that are not subject to review and approval of the Baileyton Planning Commission shall fall under the responsibility of the Baileyton Building Inspector and/or the town designee to see that the measures required in this chapter to protect the health and safety of the people and to protect the quality of surface waters are carried out as needed. The building inspector shall require reasonable drainage, erosion and sedimentation control measures as part of the grading permit process outlined in § 14-305. Under no conditions shall the building inspector or town designee allow silt or sedimentation to enter drainage ways or adjoining properties, or allow stormwater flows to adversely impact adjoining properties. Denuded areas, cuts and slopes shall be properly covered with the same schedule as directed in § 14-307(14) of this chapter. (2005 Code, § 14-318)

14-319. Grading permit also required for any project on less than one (1) acre involving grading, filling, or excavating. A grading permit is also required for any development or construction activity, except as exempted in § 14-304 and those activities exempted from the definition of land disturbing activity, on property one (1) acre or less. However, said development and construction activities do not require a formal SWPPP unless specifically requested by the planning commission. The building inspector shall require that all grading, vegetation, drainage, stormwater, erosion and sedimentation control measures necessary shall be implemented and shall meet the objectives established in this chapter. Developers must also present to the building inspector a description of the measures that will be taken to address the meet requirements established in § 14-307 (14) and (15) of this chapter, avoiding mud, sediment, rock and debris on public ways and streets. These measures must be addressed prior to the building inspector issuing a grading permit. Measures preventing excess run-off and erosion must be in place prior to the commencement of grading and/or excavation. (2005 Code, § 14-319)

14-320. Existing developed properties with drainage, erosion and sediment concerns. Properties of any size within the corporate limits of the Town of Baileyton that have been developed, or in which land disturbing activities have previously been undertaken, are subject to the following requirements:

- (1) Denuded areas still existing must be with appropriate vegetation and/or mulch;
- (2) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed;
- (3) Drainage ways shall be properly covered with vegetation or secured with stones, etc. to prevent erosion;
- (4) Junk, rubbish, etc. shall be cleared of drainage ways to help minimize possible contamination of stormwater run-off; and
- (5) Stormwater run-off in commercial areas, office or medical facilities, and multi-family residences of three (3) or more units shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures shall include, but not be limited to, the following:
 - (a) Oil skimmer/grit collector structure. These structures are designed to skim off floatables out of parking lots and other impervious surfaces, and allow solids or debris and sediment to settle before being discharged in a local waterway;
 - (b) Retention basins;
 - (c) Planting and/or sowing of vegetation; and
 - (d) Rip-rapping, mulching, and other similar erosion control measures associated with local drainage ways. (2005 Code, § 14-320)

14-321. Improvements required in existing developments normally at owner's expense. Drainage and sediment control measures required in existing developed properties shall normally be undertaken at the property or business owner's expense. The board of mayor and aldermen, however, at its discretion, in circumstances in which board members feel the town's participation is essential to protecting the health and safety of residents and the water quality of Baileyton's drainage ways, may approve cost sharing needed drainage and sedimentation control measures. (2005 Code, § 14-321)

14-322. Town may take responsibility for existing retention facilities and drainage structures. The Baileyton Board of Mayor and Aldermen may, on behalf of the town, take responsibility for existing retention facilities and drainage structures if the Baileyton Planning Commission or the BMA itself so determines that the general public is better served when said facilities are under the long-term maintenance responsibility of the town. Facilities considered shall be accepted as outlined in § 14-317 of this chapter. The Baileyton Planning Commission may also recommend to the board of mayor and aldermen that the town participate in making certain improvements to

existing facilities in addition to accepting responsibility for their long-term maintenance and care if the commission feels said improvements are in the best interest of the general public. (2005 Code, § 14-322)

14-323. Improvements required with existing developments subject to appeal. Improvements required by the building inspector and/or town designee as outlined in § 14-314 of this chapter are subject to appeal by the property/business owners to the Baileyton Planning Commission as specified in § 14-328. (2005 Code, § 14-323)

14-324. Monitoring, reports, and inspections. The building inspector and/or town designee, with the possible assistance of the soil conservationist and/or the county extension agent, shall make periodic inspections of the land disturbing activities, the stormwater management system installations, and other activities requiring a grading permit to ensure compliance with the approved plan. Inspections will evaluate whether the measures required in the SWPPP and/or grading permit and undertaken by the developer are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit. If the building inspector and/or town designee determines that the permit holder has failed to comply with plan approval, the following procedures shall apply:

(1) A notice from the building inspector and/or town designee shall be served on the permit holder either by registered or certified mail, delivered by hand to the permit holder or an agent or employee of the permitted supervising the activities, or by posting the notice at the work site in a visible location, that the permit holder is in non-compliance.

(2) The notice of non-compliance shall specify the measures needed to comply and shall specify the time within which such corrective measures shall be completed. The building inspector and/or town designee shall require a reasonable period of time for the permittee to implement measures bringing the project into compliance; however, if it is determined by the building inspector and/or town designee that health and safety factors or the damage resulting from non-compliance is extremely severe, immediate action may be required.

(3) If the permit holder fails to comply within the time specified, the permit may be subject to revocation. In addition, the permittee shall be deemed to be in violation of this chapter and thus shall be subject to the penalties provided in this chapter.

(4) In conjunction with the issuance of a notice of non-compliance or subsequent to the permittee not completing the corrective measures directed in the time period required, the building inspector or town designee may issue an order requiring all or part of the land disturbing activities on the site to be stopped. The stop work order may be issued with or as part of the notice of non-compliance, or may be delivered separately in the same manner as directed in § 14-324(1). (2005 Code, § 14-324)

14-325. Certificate of occupancy not issued until compliance with plan verified. The building inspector will not issue a certificate of occupancy necessary to occupy any commercial or residential establishment until all aspects of the drainage and sedimentation control plan have been completed, control devices constructed have been approved and accepted, and, if within a subdivision or commercial development, all paving, landscaping, and utilities, including street lighting if decorative lights are used, are approved and accepted. (2005 Code, § 14-325)

14-326. Plan construction acceptance and bond release. SWPPP activities must be inspected by the building inspector and/or the town designee. If within a commercial or subdivision development, streets, sidewalks, curbs and alleys, landscaping, street lighting, water, sewer, and any installation of power, telephone, cable, and gas utilities must be approved and accepted by the appropriate official. All monitoring and regulatory authorities shall complete an approval and acceptance form before the building inspector releases the associated performance bond. The building inspector and/or town designee will sign a release on the approval and acceptance form as soon as all of the project criteria have been satisfied and approved. (2005 Code, § 14-326)

14-327. Appeal of administrative action. Actions taken by the building inspector and/or town designee as authorized in §§ 14-314, 14-319, 14-325, 14-326 and 14-327 are subject to review by the Baileyton Planning Commission; provided an appeal is filed in writing with the chairman of the planning commission within thirty (30) days from the date any written or verbal decision has been made which the developer feels adversely affects his/her rights, duties or privileges to engage in the land disturbing activity and/or associated development proposed. Drainage and sediment mitigation actions required by the building inspector and/or town designee with existing properties or developments are also subject to appeal to the Baileyton Planning Commission; provided that appeals are made in writing, within thirty (30) days of receiving formal notification to the commission chairman citing the specific reason(s) the activity or activities required present a hardship and cannot be implemented. (2005 Code, § 14-327)

14-328. Town clean-up resulting from violations at developer's/owner's expense. Town staff is authorized to take remedial actions to prevent, clean-up, repair or otherwise correct situations in which water, sediment, rock, vegetation, etc. ends up on public streets and/or rights-of-way resulting from violations of this chapter; where necessary drainage, erosion and sedimentation control measures have not been properly implemented. In such cases, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition to a service charge of one hundred dollars (\$100.00) per hour. The town will invoice the developer/owner

directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filing a lien against the property involved in the action. (2005 Code, § 14-328)

14-329. Violations and penalty. Any developer or person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by any authorized enforcement officer or the Baileyton Planning Commission, shall be guilty of a misdemeanor, and each day of such violation or failure to comply shall be deemed a separate offense and punishable accordingly. Upon conviction, the developer or person shall be subject to fines of up to fifty dollars (\$50.00) for each offense, with each following day constituting a new offense. Unless otherwise specified within a section of this chapter, the building inspector is the designated enforcement officer of this chapter. The building inspector/town designee or any Baileyton Police Officer may issue citations for violations. (2005 Code, § 14-329)

CHAPTER 4

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

- 14-401. Statutory authorization, findings of fact, and objectives.
- 14-402. Definitions.
- 14-403. General provisions.
- 14-404. Administration.
- 14-405. Provisions for flood hazard reduction.
- 14-406. Variance procedures.
- 14-407. Legal status provisions.

14-401. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in *Tennessee Code Annotated*, § 6-2-201 delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town of Baileyton, Tennessee, Mayor and its Legislative Body do ordain as follows:

(2) Findings of fact:

(a) The Town of Baileyton, Tennessee, mayor and its legislative body wishes to (maintain/establish) eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, § 60.3.

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

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

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

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

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

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

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

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

(4) Objectives. The objectives of this chapter are:

(a) To protect human life, health, safety and property;

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

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

(d) To minimize prolonged business interruptions;

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

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

(g) To ensure that potential homebuyers are notified that property is in a floodprone area;

(h) To establish/maintain eligibility for participation in the NFIP.

14-402. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this chapter, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1'-3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

(6) "Area of special flood hazard," see "special flood hazard area." Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

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

(8) "Building," see "structure."

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

(10) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(11) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with § 1336 of the Act. It is intended as a program to provide a first layer amount of

insurance on all insurable structures before the effective date of the initial FIRM.

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

(13) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(14) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(15) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing structures," see "existing construction." Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

(a) The overflow of inland or tidal waters.

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

(18) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

(19) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(20) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(21) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(22) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

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

(24) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(25) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(26) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(27) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(28) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(29) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(30) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(31) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights

greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(32) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

(34) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the Town of Baileyton, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior or

(ii) Directly by the Secretary of the Interior.

(35) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(36) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(37) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

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

(39) "Manufactured home park or subdivision means" a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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

(41) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

(43) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management chapter and includes any subsequent improvements to such structure.

(44) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the ordinance creating this chapter or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

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

(46) "100-year flood" see "base flood."

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

(48) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the Special Flood Hazard Area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

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

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(50) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

(52) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

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

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

(55) "State coordinating agency" means the Tennessee Department of Economic and Community Development, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(56) "Structure," for purposes of this chapter, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

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

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

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

The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or;

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

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

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

(60) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(61) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

14-403. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of the Town of Baileyton, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Town of Baileyton, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

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

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this Ordinance, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body and;

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

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

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

Tennessee from taking such other lawful actions to prevent or remedy any violation. (modified)

14-404. Administration. (1) Designation of ordinance administrator. The (Building Official/Name Position of Other Official) is hereby appointed as the administrator to implement the provisions of this chapter.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage:

(i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(iii) A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-405(1) and (2).

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

(b) Construction stage: Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under

the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

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

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

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

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

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

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

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

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

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-404(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-404(2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-404(2).

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

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

(k) Maintain all records pertaining to the provisions of this chapter in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files.

14-405. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

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

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

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

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-405(2);

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

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

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-405(1), are required:

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

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood

hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

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

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-Residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-404(2).

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

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

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

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

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

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

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-405(2).

(d) Standards for manufactured homes and recreational vehicles:

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

(A) Individual lots or parcels,

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

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

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

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

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-402).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-405(1) and (2).

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

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

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

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

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

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

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

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

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

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or (5) acres, whichever is the lesser, include within such proposals Base Flood Elevation data (see § 15-_05(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-403(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of flood waters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide

supporting technical data, using the same methodologies as in the effective Flood Insurance Study for the Town of Baileyton, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2).

(4) Standards for areas of special flood hazard zones ae with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-403(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

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

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-403(2), streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-405(1) and (2).

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

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-402). All applicable data including elevations or

floodproofing certifications shall be recorded as set forth in § 14-404(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-405(1).

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

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2). Within approximate A Zones, require that those subsections of § 14-405(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(5) Standards for areas of shallow flooding (AO and AH Zones).

Located within the special flood hazard areas established in § 14-403(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-405(1) and (2), apply:

(a) All new construction and substantial improvements of residential and non residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-405(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM,

with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-404(2).

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

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-403(2) of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-404 and 14-405 shall apply.

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

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

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-404 and 14-405..

14-406. Variance procedures. (1) Board of floodplain review.

(a) Creation and appointment. A board of floodplain review is hereby established which shall consist of three (3) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one, two, and three years, respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times, as the board shall determine. All meetings of the

board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of (amount) dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than (number of) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator or other administrative official in carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The Town of Baileyton, Tennessee Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter to preserve the historic character and design of the structure.

(iii) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

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

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

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

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

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

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

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

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

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

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

(iv) Upon consideration of the factors listed above, and the purposes of this chapter, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

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

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-406(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

14-407. Legal status provisions. Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the Town of Baileyton, Tennessee, the most restrictive shall in all cases apply.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic control signs, etc.
- 15-109. General requirements for traffic control signs, etc.
- 15-110. Unauthorized traffic control signs, etc.
- 15-111. Presumption with respect to traffic control signs, etc.

¹Municipal code reference

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

²State law references

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

- 15-112. School safety patrols.
- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-122. Delivery of vehicle to unlicensed driver, etc.
- 15-123. Compliance with financial responsibility law required.
- 15-124. Adoption of state traffic statutes.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by *Tennessee Code Annotated*, title 55, chapter 9. (2005 Code, § 15-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (2005 Code, § 15-102)

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (2005 Code, § 15-103)

15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (2005 Code, § 15-104)

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

- (a) When lawfully overtaking and passing another vehicle proceeding in the same direction;
- (b) When the right-half of a roadway is closed to traffic while under construction or repair; or
- (c) Upon a roadway designated and signposted by the town for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (2005 Code, § 15-105)

15-106. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel, except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right-hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right-hand lanes shall be available for use, except that traffic moving at less than the normal rate of speed shall use the extreme right-hand lane. On one-way streets, either lane may be lawfully used in the absence of markings to the contrary. (2005 Code, § 15-106)

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane line or centerline, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line, except when necessary to make a lawful left turn from such street. (2005 Code, § 15-107)

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

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

15-109. General requirements for traffic control signs, etc. Pursuant to *Tennessee Code Annotated*, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the

¹Municipal code references

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

Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways,¹ and shall be uniform as to type and location throughout the town.

15-110. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal. (2005 Code, § 15-110)

15-111. Presumption with respect to traffic control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper town authority. (2005 Code, § 15-111)

15-112. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (2005 Code, § 15-112)

15-113. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (2005 Code, § 15-113)

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (2005 Code, § 15-114)

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on

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

any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (2005 Code, § 15-115)

15-116. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (2005 Code, § 15-116)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag, a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (2005 Code, § 15-117)

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, racing the motor, or causing the screeching or squealing of the tires on any motor vehicle. (2005 Code, § 15-118)

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the Tennessee Motor Vehicle Title and Registration Law, § 55-1-101, *et seq.*, or the Uniform Classified and Commercial Driver License Act of 1988, being *Tennessee Code Annotated*, title 55, chapter 50. (2005 Code, § 15-119, modified)

15-120. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (2005 Code, § 15-120)

15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.), and has the capability to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) (a) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(i) Except as provided in subdivisions (a)(ii)-(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 1/2") in diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Memorial Foundation, Inc..

(b) This section does not apply to persons riding:

(i) Within an enclosed cab;

(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.) and have the capacity to maintain posted highway speed limits;

(iii) Golf carts; or

(iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section.

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

(1) Definitions. (a) "Adult" shall mean any person eighteen (18) years of age or older.

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

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

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

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

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

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town.

15-123. Compliance with financial responsibility law required.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under *Tennessee Code*

Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" shall be defined by *Tennessee Code Annotated*, § 55-12-139:

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars (\$50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge that is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected, notwithstanding any law to the contrary.

15-124. Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the town adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the town adopts *Tennessee Code Annotated*, § 55-4-101 through 55-4-135, §§ 55-8-181 to 55-8-193, §§ 55-8-199, 55-8-204, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-50-351 by reference as if fully set forth in this section.

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (2005 Code, § 15-201)

15-202. Operation of authorized emergency vehicles.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to, but not upon returning from, a fire alarm may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may:

(a) Park or stand, irrespective of the provisions of this title;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the maximum speed limit so long as life or property is not thereby endangered; and

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle may be equipped with or display a red light only in combination with a blue light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of the driver's own reckless disregard for the safety of others. (2005 Code, § 15-202)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-501.

15-203. Following emergency vehicles. No driver of any vehicle other than one (1) on official business shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (2005 Code, § 15-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department, except in obedience to the direction of a firefighter or police officer. (2005 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (2005 Code, § 15-301)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour, unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (2005 Code, § 15-302)

15-303. In school zones. Pursuant to *Tennessee Code Annotated*, § 55-8-152, the town shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (2005 Code, § 15-303)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. Every driver who intends to turn, or partly turn from a direct line, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal required in *Tennessee Code Annotated*, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement. (2005 Code, § 15-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway. (2005 Code, § 15-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right-half of the roadway nearest the centerline thereof and by passing to the right of such centerline 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 centerline 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. (2005 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (2005 Code, § 15-404)

15-405. U-turns. U-turns are prohibited. (2005 Code, § 15-405)

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic control signals generally.
- 15-508. At flashing traffic control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the applicable laws of this state, or of a police vehicle making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (2005 Code, § 15-501)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway. (2005 Code, § 15-502)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk, unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed. (2005 Code, § 15-503)

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

15-504. At railroad crossings. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad, and shall not proceed until that driver can do so safely. The foregoing requirements shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(b) A crossing gate is lowered or when a human flagger gives or continues to give a signal of the approach or passage of a railroad train;

(c) A railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; and

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (2005 Code, § 15-504)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, except when directed to proceed by a police officer or traffic control signal. (2005 Code, § 15-505)

15-506. At "yield" signs. (1) The driver of a vehicle who is faced with a yield sign at the entrance to a through highway or other public roadway is not necessarily required to stop, but is required to exercise caution in entering the highway or other roadway and to yield the right-of-way to other vehicles which have entered the intersection from the highway or other roadway, or which are approaching so closely on the highway or other roadway as to constitute an immediate hazard, and the driver having so yielded may proceed when the way is clear.

(2) Where there is provided more than one (1) lane for vehicular traffic entering a through highway or other public roadway, if one (1) or more lanes at such entrance are designated a yield lane by an appropriate marker, this section shall control the movement of traffic in any lane so marked with a yield sign, even though traffic in other lanes may be controlled by an electrical signal device or other signs, signals, markings or controls. (2005 Code, § 15-506)

15-507. At traffic control signals generally. Whenever traffic is controlled by traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, the following colors only shall be used, and the terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green alone or "Go".

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left, unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Yellow alone or "Caution," when shown following the green or "Go" signal.

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing the signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) Red alone or "Stop".

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. A right turn on a red signal shall be permitted at all intersections within the town; provided that the prospective turning car shall come to a full and complete stop before turning and that the turning car shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, such turn will not endanger other traffic lawfully using the intersection. A right turn on red shall be permitted at all intersections, except those that are clearly marked by a "No Turns On Red" sign, which may be erected by the town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(c) A left turn on a red or stop signal shall be permitted at all intersections within the town where a one-way street intersects with another one-way street moving in the same direction into which the left turn would be made from the original one-way street. Before making

such a turn, the prospective turning car shall come to a full and complete stop and shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with the traffic signal so as not to endanger traffic lawfully using the intersection. A left turn on red shall be permitted at any applicable intersection, except that clearly marked by a "No Turn on Red" sign, which may be erected by the town at intersections which the town decides requires no left turns on red in the interest of traffic safety.

(4) Steady red with green arrow.

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow, but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) No pedestrian facing such signal shall enter the roadway, unless such entry can be made safely and without interfering with any vehicular traffic.

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable, except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal. (2005 Code, § 15-507)

15-508. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, and the light is clearly visible for a sufficient distance ahead to permit such stopping, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (2005 Code, § 15-508)

15-509. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place, such signals shall indicate as follows:

(1) "Walk". Pedestrians facing such signals may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) "Wait or Don't Walk". No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing. (2005 Code, § 15-509)

15-510. Stops to be signaled. Every driver operating a motor vehicle who intends to stop such vehicle, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give the signal required in *Tennessee Code Annotated*, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement. (2005 Code, § 15-510)

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Regulation by parking meters.
- 15-607. Lawful parking in parking meter spaces.
- 15-608. Unlawful parking in parking meter spaces.
- 15-609. Unlawful to occupy more than one parking meter space.
- 15-610. Unlawful to deface or tamper with meters.
- 15-611. Unlawful to deposit slugs in meters.
- 15-612. Presumption with respect to illegal parking.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this town shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases, the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (2005 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (2005 Code, § 15-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (2005 Code, § 15-603)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(8) Within fifty feet (50') of the nearest rail of a railroad crossing;

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel; or

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is:

(a) Physically handicapped; or

(b) Parking such vehicle for the benefit of a physically handicapped person.

A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under *Tennessee Code Annotated*, title 55, chapter 21. (2005 Code, § 15-604)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone. (2005 Code, § 15-605)

15-606. Regulation by parking meters. In the absence of an official sign to the contrary which has been installed by the town, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the board of mayor and aldermen, parking shall be regulated by parking meters where the same have been installed by the town. The presumption shall be that all installed parking meters were lawfully installed by the town. (2005 Code, § 15-606)

15-607. Lawful parking in parking meter spaces. Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin has been deposited in the parking meter and the said meter has been activated or placed in operation in accordance with the instructions printed thereon. (2005 Code, § 15-607)

15-608. Unlawful parking in parking meter spaces. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in a parking space regulated by a parking meter for more than the maximum period of time which can be purchased at one (1) time. Insertion of additional coin or coins in the meter to purchase additional time is unlawful.

No owner or operator of any vehicle shall park or allow his vehicle to be parked in such a space when the parking meter therefor indicates no parking time allowed, whether such indication is the result of a failure to deposit a coin or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing a coin therein at the time the vehicle was parked. (2005 Code, § 15-608)

15-609. Unlawful to occupy more than one parking meter space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space; provided, however, that vehicles which are too large to park within one (1) space may be permitted to occupy two (2) adjoining spaces provided proper coins are placed in both meters. (2005 Code, § 15-609)

15-610. Unlawful to deface or tamper with meters. It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (2005 Code, § 15-610)

15-611. Unlawful to deposit slugs in meters. It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States. (2005 Code, § 15-611)

15-612. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (2005 Code, § 15-612)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Violations and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the town court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be a civil offense for any alleged violator to give false or misleading information as to his name or address. (2005 Code, § 15-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (2005 Code, § 15-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation. (2005 Code, § 15-703)

¹Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 1.

State law reference

Tennessee Code Annotated, §§ 7-63-101, *et seq.*

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked, so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be equal to the fee charged by the wrecker service who tows the vehicle. The storage cost of the impounded vehicle shall be thirty dollars (\$30.00) a day for each motor vehicle stored in the impoundment lot. Any part of a day shall count as a whole day. (Ord. #20170111, Jan. 2017)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in *Tennessee Code Annotated*, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of *Tennessee Code Annotated*, §§ 55-16-103 to 55-16-109. (2005 Code, § 15-705)

15-706. Violations and penalty. Any violation of this title shall be a civil offense punishable as follows:

(1) **Traffic citations.** Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) **Parking citations.** (a) **Parking meter.** If the offense is a parking meter violation, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the town recorder a fine of three dollars (\$3.00); provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, his civil penalty shall be ten dollars (\$10.00).

(b) **Other parking violations, excluding handicapped parking.** For other parking violations, excluding handicapped parking violations, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the town recorder a fine of ten dollars (\$10.00); provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, his civil penalty shall be twenty-five dollars (\$25.00). (2005 Code, § 15-707)

CHAPTER 8**HEAVY VEHICLE TRAFFIC****SECTION**

15-801. Heavy vehicles.

15-802. Exceptions.

15-801. Heavy vehicles. No tractor-trailer, nor any category of truck with a gross vehicle weight in excess of ten (10) tons (twenty thousand (20,000) pounds), may be operated upon the streets of Baileyton other than on Van Hill Road, Horton Highway, Main Street starting at the intersection of Horton Highway and Main Street going southeast for one and one-fourth (1-1/4) miles to the end of the town limits of Baileyton and those streets designated as a state or federal highway. (2005 Code, § 15-801)

15-802. Exceptions. The following are exceptions to this chapter:

(1) Such heavy vehicles as are traveling on streets by necessity in order to permit the operator to make a local delivery or accomplish some other limited, lawful, occasional, and temporary purpose. In the event such a vehicle causes damage to a street, they shall be liable for all costs to repair said street;

(2) The operation of heavy vehicles upon any street where necessary to the conduct of business at a destination point within the town; provided streets allowed for truck traffic are used until reaching the intersection nearest the destination point. In the event such a vehicle causes damage to a street, they shall be liable for all costs to repair said street;

(3) The operation of emergency vehicles upon any street in the town;

(4) The operation of school buses; and

(5) The operation of vehicles owned or operated by the town, public utilities, any contractor or materialman which is and while engaged in the repair, maintenance or construction of streets, street improvements, utilities, or sanitation collection within the town. (2005 Code, § 15-802)

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Obstruction of drainage ditches.
- 16-108. Abutting occupants to keep sidewalks clean, etc.
- 16-109. Parades, etc., regulated.
- 16-110. Animals and vehicles on sidewalks.
- 16-111. Fires in streets, etc.
- 16-112. Violations and penalty.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right-of-way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (2005 Code, § 16-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (2005 Code, § 16-102)

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

¹Municipal code reference

Motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (2005 Code, § 16-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code. (2005 Code, § 16-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley, except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (2005 Code, § 16-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk, except when required by law. (2005 Code, § 16-106)

16-107. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (2005 Code, § 16-108)

16-108. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (2005 Code, § 16-109)

16-109. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the town recorder. (2005 Code, § 16-110)

16-110. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as 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. (2005 Code, § 16-111)

16-111. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (2005 Code, § 16-112)

16-112. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. (2005 Code, § 16-113)

CHAPTER 2

EXCAVATIONS

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Violations and penalty.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place, without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the town recorder is open for business, and the permit shall be retroactive to the date when the work was begun. (2005 Code, § 16-201)

16-202. Applications. Applications for such permits shall be made to the town recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the town recorder within twenty-four (24) hours of its filing. (2005 Code, § 16-202)

16-203. Fee. The fee for such permits shall be twenty dollars (\$20.00). (2005 Code, § 16-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the town recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall ensure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the town recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit, the applicant may deposit with the town recorder a surety bond in such form and amount as the town recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (2005 Code, § 16-204)

16-205. Safety restrictions on excavations. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (2005 Code, § 16-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in the town shall restore the street, alley, or public place to its original condition, except for the surfacing, which shall be done by the town, but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the town recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (2005 Code, § 16-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to ensure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury, as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the town recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than two hundred fifty thousand dollars (\$250,000.00) for each person and six hundred thousand dollars (\$600,000.00) for each accident, and for property damages not less than eighty-five thousand dollars (\$85,000.00) for any one (1) accident. (2005 Code, § 16-207)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation, unless permission for an extension of time is granted by the town recorder. (2005 Code, § 16-208)

16-209. Supervision. The person designated by the board of mayor and aldermen shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (2005 Code, § 16-209)

16-210. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense. (2005 Code, § 16-210)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

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.
- 17-109. Refuse collection fees.
- 17-110. Violations and penalty.

17-101. Refuse defined. "Refuse" means and includes 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. (2005 Code, § 17-101)

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. (2005 Code, § 17-102)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within the town where refuse accumulates, or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this

¹Municipal code reference

Property maintenance regulations: title 13.

maximum capacity shall not apply to larger containers which the town handles mechanically. Furthermore, except for containers which the town handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four feet (4') and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two feet (2') thick before being deposited for collection. (2005 Code, § 17-103)

17-104. Location of containers. Where alleys are used by the town refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the town refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there 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. (2005 Code, § 17-104)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (2005 Code, § 17-105)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the land owner. Collections shall be made regularly in accordance with an announced schedule. (2005 Code, § 17-106, modified)

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. (2005 Code, § 17-107)

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. (2005 Code, § 17-108)

17-109. Refuse collection fees. Refuse collection fees shall be at such rates as are from time to time set by the board of mayor and aldermen by resolution.¹ (2005 Code, § 17-109)

17-110. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (2005 Code, § 17-110)

¹Administrative resolutions are of record in the office of the town recorder.

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER.
2. WASTEWATER REGULATIONS.

CHAPTER 1

WATER

SECTION

18-101. Water.

18-101. Water. Water for the Town of Baileyton is provided by North Greene Utility District.

¹Municipal references
Refuse disposal: title 17.

CHAPTER 2

WASTEWATER REGULATIONS

SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Connection to public sewers.
- 18-204. Septic tank effluent pump or grinder pump wastewater systems.
- 18-205. Private domestic wastewater disposal.
- 18-206. Regulation of holding tank waste disposal or trucked in waste.
- 18-207. Discharge regulations.
- 18-208. Application for domestic wastewater connection and industrial wastewater discharge permits.
- 18-209. Industrial user monitoring, inspection reports, records access, and safety.
- 18-210. Enforcement and abatement.
- 18-211. Fees and billing.
- 18-212. Sewer use billing.
- 18-213. Validity.

18-201. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the Town of Baileyton, Tennessee, wastewater treatment system. The objectives of this chapter are:

- (1) To protect the public health;
- (2) To provide problem free wastewater collection and treatment service;
- (3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, which will cause the system discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements, or which will cause physical damage to the wastewater treatment system facilities;
- (4) To provide for full and equitable distribution of the cost of the wastewater treatment system;
- (5) To enable the town to comply with the provisions of the Federal Water Pollution Control Act, the General Pretreatment Regulations (40 CFR Part 403), and the Tennessee Water Quality Control Act, *Tennessee Code Annotated*, § 69-3-123, *et seq.*;
- (6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the 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. The chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for 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.

This chapter shall apply to the town and to persons outside the town who are, by contract or agreement with the town, users of the municipal wastewater treatment system. Except as otherwise provided herein, the local administrative officer of the town shall administer, implement, and enforce the provisions of this chapter.

18-202. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 U.S.C. 1251, et seq.

(2) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical oxygen demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20 centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(6) "Categorical standards." The National Categorical Pretreatment Standards or Pretreatment Standard.

(7) "Town." The Board of Mayor and Aldermen, Town of Baileyton, Tennessee.

(8) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(9) "Compatible pollutant." Shall mean BOD, suspended solids, pH, 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.

(10) "Control authority." The term "control authority" shall refer to the "approval authority," defined hereinabove; or the local hearing authority if the town has an approved Pretreatment Program under the provisions of 40 CFR 403.11.

(11) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(12) "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.

(13) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(14) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(15) "Environmental Protection Agency, or EPA." The U. S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(16) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(17) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. 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 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.

(18) "Grease interceptor." An interceptor whose rated flow is 50 g.p.m. or less and is generally located inside the building.

(19) "Grease trap." An interceptor whose rated flow is 50 g.p.m. or more and is located outside the building.

(20) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(21) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(22) "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(23) "Industrial user." A source of Indirect Discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act (33 U.S.C. 1342).

(24) "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.

(25) "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.

(26) "Interference." The inhibition or disruption of the municipal wastewater processes or operations which contributes to a violation of any requirement of the town's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria including 40 CFR 503, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), Rules and Regulations of the State of Tennessee, chapter 1200-1-7 (Solid Waste Processing and Disposal), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(27) "Local administrative officer." The chief administrative officer of the local hearing authority.

(28) "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 § 18-210.

(29) "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

(30) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such

source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(31) "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 Federal Water Pollution Control Act as amended.

(32) "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.

(33) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(34) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(35) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

(36) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(37) "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).

(38) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(39) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(40) "Publicly owned treatment works (POTW)." A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the town. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey

wastewaters to the POTW from persons outside the town, who are, by contract or agreement with the town users of the town's POTW.

(41) "Shall" is mandatory; "May" is permissive.

(42) "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 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(43) "Significant noncompliance." Per 40 CFR 403.8(f)(2)vii.

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH).

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8 (f)(1)(vi)(B) to halt or prevent such a discharge.

(e) Failure to meet, within 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 30 days after their due date, required reports such as baseline monitoring reports, 90-day compliance

reports, periodic self monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations which the Control Authority determines will adversely affect the operation of 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 times in four hours.

(44) "Slug." Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 18-207 of this chapter or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

(45) "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.

(46) "State." The State of Tennessee.

(47) "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.

(48) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(49) "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.

(50) "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.

(51) "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.

(52) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a 24-hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(53) "User." Any person who contributes, causes or permits the contribution of wastewater into the town's POTW.

(54) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(55) "Wastewater treatment systems." Defined the same as POTW.

(56) "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.

18-203. Connection to public sewers. (1) Requirements for proper wastewater disposal. (a) 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.

(b) 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 chapter.

(c) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) Except as provided in § 18-203(1)(e) 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 public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the property line over public access.

(e) 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.

(f) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-205 of this chapter.

(2) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The town shall make all connections to the public sewer upon the property owner first submitting a connection application from the superintendent as required by § 18-208 of this chapter.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment

of the superintendent. A connection fee shall be paid to the town at the time the application is filed.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(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, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(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").

Small diameter gravity sewer - Two inches (2").

Septic Tank Effluent Pump - One and one quarter inches (1-1/4").

Where the septic tanks become an integral part of the collection and treatment system, the minimum size influent line shall be four inches (4") and the minimum size of septic tank shall be 1,000 gallons. Septic tanks shall be constructed of water tight material and protected from flotation. The town shall have the right, privilege, and authority to locate, inspect, operate, and maintain septic tanks which are an integral part of the collection and treatment system.

(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 - 1/8 inch per foot.

Two inch (2") sewers - 3/8 inch per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

(iv) Slope and alignment of all building sewers shall be neat and regular.

(v) Building sewers shall be constructed only of ductile iron pipe class 50 or above or polyvinyl chloride pipe schedule 40 or and SDR-21 or greater. Joints shall be rubber or neoprene "o"

ring compression joints or solvent welded. No other joints shall be acceptable.

(vi) A cleanout shall be located five (5) feet outside of the building, one as it crosses the property line and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of six (6) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches.

(vii) Connections of building sewers to the public sewer system shall be made only by the town and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. All such connections shall be made gastight and watertight.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8-inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a step or grinder pump and discharged to the building sewer at the expense of the owner, pursuant to § 18-204.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or to the procedures set forth in appropriate specifications of the ASTM and Water Environment Federation Manual of Practice FD-5. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(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 for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(3) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the town. Owners failing to maintain or repair building sewers or who allow storm water to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(4) Sewer extensions. 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 documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The 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.

18-204. Septic tank effluent pump or grinder pump wastewater systems. When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to the regulations of the town.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction and must be approved by the town.

(b) Pumps must be approved by the town and shall be maintained by the town.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the town. Installation shall follow design criteria for STEP and GP systems as provided by the superintendent.

(3) Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the town and connection will be made to the town sewer only after inspection and approval of the town.

(4) Ownership and easements. Homeowners or developers shall provide the town with ownership and an easement. Access by the town to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system.

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.

(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the town. However, pumping required more frequently than once every five years shall be billed to the homeowner.

(7) Additional charges. The town shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for identical problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call.

18-205. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to 1/8-inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in § 18-203, the owner shall provide a private sewage pumping station as provided in § 18-203(2)(e)(viii).

(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) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the superintendent stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the county health department.

(b) Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the town and the county health department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the town and the county health department.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the town and the county health department. They shall be allowed to inspect the work at any stage of construction and the owner shall notify the town and the county health department when the work is ready for final inspection, before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the town and the county health department.

(d) 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, the town and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town. When the public sewer becomes available, the building sewer, or the septic tank effluent line shall be connected to the public sewer within

sixty (60) days of the date of availability and the private sewage disposal system should be cleaned of sludge and if no longer used as a part of the town's treatment system, filled with suitable material.

(f) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the county health department.

18-206. Regulation of holding tank waste disposal or trucked in waste. (1) Permit. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the town to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

(2) 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 § 18-211. Any such permit granted shall be for one fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted 3-inch permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) 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 absolute discretion where it appears that the waste could interfere with the operation of the POTW.

(4) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or 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 Baileyton.

(5) Trucked in waste. No waste material or cleaning waste will be allowed from trucks, railcars, barges, etc., or temporally pumped waste without written approval by the superintendent. This approval may require testing, flow monitoring and record keeping or the issuance of an industrial pretreatment permit.

18-207. Discharge regulations.¹ (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 POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of § 18-207 may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of § 18-210. A user may not contribute the following substances to any POTW:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over twenty percent (20%) of the lower explosive limit (LEL) of the meter. Prohibited flammable materials including, but not limited to, wastestreams with a closed cap flash point of less than 140^o F or 60^o 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 POTW.

¹Tables A - Plant Protection Criteria, B - User Discharge Restrictions, and C - Surcharge and Maximum Limits, and any amendments thereto, are available in the water treatment operator's office.

(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 ($\frac{1}{2}$ ") in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, 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 POTW.

(e) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(h) Any trucked or hauled pollutants except at discharge points designated by the POTW.

(i) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, 40 CFR 503, guidelines, or regulations 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.

(j) Any substances which will cause the POTW to violate its NPDES Permit or the receiving water quality standards.

(k) 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.

(l) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40°C (104° F).

(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 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) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A - Plant Protection Criteria, unless specifically allowed by their discharge permit local limits (Table B - User Discharge Restrictions). Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

(3) Fats, oils and grease traps and interceptors.

(a) Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan within a reasonable amount of time;

(B) Service and maintain the equipment in order to prevent adverse impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) 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 shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) 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 $\frac{1}{2}$ inch or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance

with the Standard Plumbing Code and Tennessee Department of Environment and Conservation engineering standards. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the town is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the town. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the town has under this chapter, or state or federal law.

The town retains the right to inspect and approve installation of control equipment.

(f) The superintendent may use industrial wastewater discharge permits under § 18-206 to regulate the discharge of fat, oil and grease.

(4) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A - Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the town the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pre-treatment levels for these parameters. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

(5) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The pretreatment coordinator shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

(6) 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 more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge

of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency.

(7) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from 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. Any person causing or suffering from any accidental 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 POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. In lieu of placing notices on bulletin boards, the users may submit an approved SPIC. Each user shall annually certify to the pretreatment coordinator compliance with this paragraph. (modified)

18-208. Application for domestic wastewater connection and industrial wastewater discharge permits. (1) Application for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the town sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-203 of this chapter and an inspection has been performed by the superintendent or his representative.

The receipt by the town of a prospective customer's application for 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 POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall acquire a permit within 180 days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least 60 days prior to connecting to or contributing to the POTW.

(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 number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-207(1) and (2) discharge variations -- daily, monthly, seasonal and 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. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter.

(iv) If additional pretreatment and/or 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 § 18-207 of this chapter.

(v) The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the town of a prospective customer's application for wastewater discharge permit shall not obligate the town to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the town's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the town to the applicant of such service.

(vii) The 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.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the town.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limitations on volume, concentration, and time of discharge, based on 40 CFR 403, categorical standards, local limits, and state and local law;

(D) Self-monitoring, sampling, reporting, notification, record keeping, identification of pollutants to be monitored, sampling location, sampling frequency, sample type;

(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) Prohibition of bypasses.

(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 inspections 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) Requirements for notification of slug discharged and spill control plan;

(H) Effluent mass loading restrictions;

(I) Other conditions as deemed appropriate by the town to ensure compliance with this chapter.

(d) Permit revision. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the pretreatment coordinator within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by §§ 18-208(2)(b)(ii) and (iii).

(e) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit.

(g) 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.

(h) 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, questionnaire, permit application, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the 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.

18-209. Industrial user monitoring, inspection reports, records access, and safety. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) 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 their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(3) Compliance date report. Within 180 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the pretreatment coordinator a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operations and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a professional engineer registered to practice engineering in Tennessee.

(4) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the pretreatment coordinator by the end of the months of March and September, or according to permit requirements, unless required more frequently in the pretreatment standard or by the pretreatment coordinator, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and requirements.

In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the pretreatment coordinator and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the pretreatment coordinator may agree to alter the months during which the above reports are to be submitted.

(b) The pretreatment coordinator may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where requested by the pretreatment coordinator of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained in 40 CFR 136, and amendments thereto. Sampling shall be performed in accordance with techniques approved by the administrator.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

- (a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;
- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the pretreatment coordinator, Director of the Division of Water Pollution Control, Tennessee Department of Environment and Conservation or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the pretreatment coordinator, the approval authority, or the Environmental Protection Agency.

(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 POTW shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within 90 days of start up of the industrial process.

(8) Reporting violations. If sampling performed by the industrial user indicates effluent violations the user must notify the pretreatment coordinator within 24 hours of becoming aware of the violation and repeat the analysis within 30 days of becoming aware of the violation, unless the POTW has monitored between the sample date and the day when the results of the violation were received, or if the POTW monitors at least once per month, or if the user is on a monthly sample schedule.

18-210. Enforcement and abatement. (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 pretreatment program of the town or orders of the local hearing authority issued pursuant thereto has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation thereof, may order that necessary corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the person or persons named therein request by written petition a hearing before the local hearing authority as provided in § 18-210(2), no later than thirty (30) days after the date such order is served; provided, that the local hearing authority may review such final order on the same grounds upon which a court of the state may review default judgments.

(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 said user a written notice of violation. Within fifteen (15) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the pretreatment coordinator. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the town to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(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 shall not be prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time stated, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) 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 such remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) 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 POTW, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take such emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the local administrative officer in meeting the emergency.

(ii) Appeals from orders of the local administrative 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 such 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 person affected thereby personally, by the local administrative officer or any person designated by the local administrative officer, or such service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(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 such hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing herein provided may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting in order to conduct the hearing herein provided;

(iii) A verbatim record of the proceedings of such hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made pursuant to subdivision (a)(vi). The transcript so recorded shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of the county in which the pretreatment agency is located shall have jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring such person to appear and testify or produce evidence as the case may require, and any failure to obey such order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter such decisions and orders as, in its opinion, will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the chair;

(vii) The decision of the local hearing authority shall become final and binding on all parties unless appealed to the courts as provided in subsection (b); and

(viii) Any person to whom an emergency order is directed pursuant to § 18-210(1) shall comply therewith immediately, but on petition to the local hearing authority shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) days from the receipt of such petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party, including the pretreatment agency, who is or may be adversely affected thereby, to the chancery court pursuant to the common law writ of certiorari set out in *Tennessee Code Annotated*, § 27-8-101, within sixty (60) days from the date such order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user which causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations--civil penalty. (a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) per day for each day during which the act or omission continues or occurs:

- (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 civil penalty shall be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of such assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator; and

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of *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 or this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on such judgment. The court, in such proceedings,

shall treat the failure to appeal such assessment as a confession of judgment in the amount of the assessment.

(5) 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 such action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-208(2)(h) of this chapter, any user that violates the following conditions, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination.

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-207 of this chapter.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) 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.

18-211. 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 fees (see Table C, § 18-207);

- (e) Industrial wastewater discharge permit fees;
 - (e) Fees for industrial discharge monitoring; and
 - (f) 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 § 18-208 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.¹ The sewer board 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 § 18-208 of this chapter.
- (7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the town for the necessary compliance monitoring and other administrative duties of the pretreatment program. (modified)

18-212. Sewer use billing. North Greene Utility District provides their meter readings to the Town of Baileyton which are, in turn, used to create charges for sewer usage.

18-213. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the town.

¹Such rates are reflected in administrative resolutions, which are of record in the office of the town recorder.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished by the Greeneville Energy Authority.

19-101. To be furnished by the Greeneville Energy Authority.
Electricity shall be furnished for the Town of Baileyton and its inhabitants by the Greeneville Energy Authority.

CHAPTER 2**GAS****SECTION**

19-201. To be furnished under franchise.

19-201. To be furnished under franchise. Gas service shall be furnished for the town and its inhabitants under such franchise as the board of mayor and aldermen shall grant. The rights, powers, duties, and obligations of the town, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.¹ (2005 Code, § 19-201)

¹The agreements are of record in the office of the recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. SPECIAL EVENTS PLAN.
2. PUBLIC RECORDS POLICY.

CHAPTER 1

SPECIAL EVENTS PLAN

SECTION

- 20-101. Definitions.
- 20-102. Permits.
- 20-103. Applications.
- 20-104. Public facilities.
- 20-105. Public safety.
- 20-106. Indemnification, etc.
- 20-107. Clean-up.
- 20-108. Compliance.
- 20-109. Limitations.

20-101. Definitions. As used herein the following term shall be defined as state:

- (1) "Business day." Day that the Town of Baileyton is open for business
- (2) "Organizer." Person, entity, or organization that organizes a special event.
- (3) "Special event." Any public event that necessitates the closing of a public right of way with in the limits of the Town of Baileyton.
- (4) "Street vendor." Any person, entity, or organization that offers goods or services (including free goods and services) to the public within the confines of a special event. (Ord. #2022-3, April 2022)

20-102. Permits. (1) An organizer must have a valid special event permit issued by the Town of Baileyton prior to organizing a special event. A special event permit will only be issued following approval by the board of mayor and aldermen of the special event. This special event permit shall be issued without fee.

(2) A street vendor must have a valid street vendor permit issued by the Town of Baileyton prior to participating in a special event. A street vendor permit will only be issued following the issuance of the special event permit. The

street vendor permit shall be valid for up to three (3) consecutive days and during the special event.

(3) The organizer shall be issued street vendor permits up to the maximum number approved by the board of mayor and aldermen. The organizer shall be responsible for securing any fees with any completed street vendor applications from the street vendors.

(4) A street vendor shall possess and display a valid street vendor permit at all times during the special event that the street vendor is offering goods or services (Ord. #2022-3, April 2022)

20-103. Applications. (1) Any person, entity or organizations desiring to organize a special event shall complete and submit an application to the board of mayor and aldermen.

(2) Any person entity or organization desiring to offer goods or services (including free goods or services) to the public within the confines of a special event shall complete and submit an application for a street vendor pennit subsequent to the granting of the special event permit.

(3) Applications for a special event permit may be up to one (1) calendar year in advance, but no less than (4) weeks prior to the special event

(4) Applications for street vendor permits may only be made following the approval of special event permit and least five (5) business days prior to the special event.

(5) The city recorder or designee shall develop appropriate application forms which shall incorporate the provisions of this chapter.

A special event application shall include the event date(s), hours of operation of the event, desired right of way closures, maximum number of street vendors, admission charges, public facilities plan, public safety measures, the required indemnifications, and such other information as may be necessary to ensure the organizer's compliance with laws and ordinances relating to the required licenses, permits, and taxation matters. An application for a street vendor permit shall include a description of the goods and services to be offered to the public, the required indemnifications, and such other information as may be necessary to ensure the street vendor's compliance with laws and ordinances relating to required licenses, permits, and taxation matters. (Ord. #2022-3, April 2022)

20-104. Public facilities. An organizer shall provide adequate public restrooms, access to drinking water, and trash disposal, including ADA compliant facilities to accommodate the expected special events attendance and activities. (Ord. #2022-3, April 2022)

20-105. Public safety. An organizer shall undertake and provide such preventative and protective measures to ensure the public's safety in light of the anticipated attendance and activities at the special event. At least five (5)

business days prior to submitting a permit request to the board of mayor and aldermen, and organizer shall meet with the chief of police and the local fire chief, or their authorized designee(s), to determine what safety measures are appropriate for the special event. The chief of police and the local fire chief, or their authorized designee(s), shall report to the board of mayor and aldermen a summary of such safety measures together with an estimate of the cost to implement the same. (Ord. #2022-3, April 2022)

20-106. Indemnification, etc. (1) An organizer shall indemnify and hold harmless the Town of Baileyton from any and all claims or losses arising out of the acts or omissions for the organizer, its employees, officers and agents, including the town's cost of defense and attorney's fees.

(2) A street vendor shall indemnify and hold harmless the Town of Baileyton from any and all claims or losses arising out of the acts or omissions of the street vendor, its employees, officers and agents, including the town's cost of defense and attorney's fees.

(3) An organizer shall indemnify the Town of Baileyton for any damage to the town's property arising out of the special event and attributable to the acts omissions of the organizer, its employees, officers or agents, including the town's cost of enforcing this indemnification and its attorneys' fees.

(4) A street vendor shall indemnify the Town of Baileyton for any damage to the town's property arising out of the special event and attributable to the acts or omissions of the street vendor, its employees, officers or agents, including the town's cost of enforcing this indemnification and its attorneys' fees.

(5) An organizer shall agree to faithful perform all obligations undertaken by the organizer under this chapter.

(6) A street vendor shall agree to faithfully perform all obligations undertaken by the street vendor under this ordinance. A street vendor shall be exempt from the bond requirements of the municipal code. (Ord. #2022-3, April 2022)

20-107. Clean up. An organizer shall immediately clean up and restore the public areas of the special event upon the conclusion of the special event so as to return to the public uninhibited use of such areas as quickly as feasible. (Ord. #2022-3, April 2022)

20-108. Compliance. An organizer and each street vendor shall comply with all applicable ordinances of the Town of Baileyton, including and without limitation the sign ordinance and all requirements relating to noise. The issuance of a permit under this chapter shall not constitute a license or an exemption from compliance with any law, ordinance or regulation except as specified. (Ord. #2022-3, April 2022)

20-109. Limitations. In order to prevent the excessive closure of public rights-of-way which would be counter-productive to the purpose of this chapter, the number of special events permitted in any one (1) calendar year shall not exceed twenty (20). Further, no special event shall be permitted that exceeds in duration three (3) consecutive calendar days nor one (1) business day. (Ord. #2022-3, April 2022)

CHAPTER 2**PUBLIC RECORDS POLICY****SECTION**

20-201. Public records policy.

20-201. Public records policy. The public records policy of the Town of Baileyton¹ is incorporated by reference as if fully set forth herein. (Res. #20170614, June 2017)

¹The public records policy, as may be amended from time to time, along with all pertinent forms may be found in the recorder's office.

ORDINANCE NO. 2024-12

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF BAILEYTON, TENNESSEE.

WHEREAS some of the ordinances of the Town of Baileyton are obsolete, and

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

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

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

Section 1. Ordinances codified. The ordinances of the Town of Baileyton 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 "Baileyton Municipal Code," hereinafter referred to as the "Municipal Code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in section 3 below.

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

code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

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

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.¹

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The

¹State law reference

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

invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

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

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading 12/2/23, 2023

Passed 2nd reading 6/11, 2024



Mayor



Recorder

APPROVED AS TO FORM:



Town Attorney